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4 SELECT COMMITTEE TO INVESTIGATE THE
5 JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.

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11 INTERVIEW OF: BRYAN CUTLER

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15 Tuesday, May 31, 2022

16

17 Washington, D.C.

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20 The interview in the above matter was held via Webex, commencing at 1:00 p.m.

21 Present: Representative Schiff.

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2 Appearances:

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5 For the SELECT COMMITTEE TO INVESTIGATE

6 THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

7

8 [REDACTED] SENIOR ADMINISTRATIVE ASSISTANT

9 [REDACTED] STAFF ASSOCIATE

10 [REDACTED] SENIOR INVESTIGATIVE COUNSEL

11 [REDACTED] INVESTIGATIVE COUNSEL

12 [REDACTED] CHIEF CLERK

13 [REDACTED] PROFESSIONAL STAFF MEMBER

14

15

16 For BRYAN CUTLER:

17

18 MARK RUSH

19 K&L Gates

20 1601 K Street, NW

21 Washington, D.C. 20006

1

2 [REDACTED] Good afternoon.

3 This is a transcribed interview of Bryan Cutler by the House Select Committee to
4 Investigate the January 6th Attack on the United States Capitol, pursuant to House
5 Resolution 503.

6 I would like to ask the witness at this time to please identify yourself by stating
7 your name and spelling your last name for the record.

8 Mr. Cutler. Yes, ma'am. Bryan D. Cutler, B-R-Y-A-N, D, C-U-T-L-E-R.

9 [REDACTED] Thank you.

10 And I know your counsel is with you today.

11 Counsel, would you like to note your appearance for the record?

12 Mr. Rush. Certainly. My name is Mark Rush. I represent Speaker Cutler, and
13 I'm with the law firm of K&L Gates.

14 [REDACTED] Great. Thank you, Mr. Rush.

15 Speaker Cutler, I'll go over a few preliminaries here today. As I introduced
16 myself to you just before we went on the record, my name is [REDACTED] I'm an
17 investigative counsel for the select committee. I'm joined on our conference today by a
18 few of my fellow staff members. Here in the room with me is professional staff member
19 [REDACTED] and as you'll see on the Webex participants list, we also have a few
20 members of our staff, including our chief clerk, [REDACTED], and my colleague, senior
21 investigative counsel, [REDACTED]

22 So this is going to be a staff-led deposition -- or transcribed interview -- forgive
23 me -- today. Members of the select committee may choose to join. If they do so, they
24 will also log in through the Webex virtual platform. You'll be able to see them in the
25 participants list, but we'll do our best to note on the record and for your awareness when

1 they join as well. As I said, this will be a staff-led interview, but if our members do
2 choose to join, we'll try to take some pauses to allow them to ask any questions that they
3 may wish to do at that time.

4 For our witnesses who are attorneys, some of this is a bit belt and suspenders, but
5 I'll go through a few of our preliminary sort of best practices before we go on the record.
6 As an attorney, I'm sure this will not be unfamiliar to you.

7 We have on the line with us today our official reporters. As you heard when we
8 got started, this virtual proceeding is being recorded through the platform, but the
9 transcript that's being taken by the official reporters is the official record of today's
10 interview. You will have an opportunity, along with your lawyer, to review the
11 transcript if you wish to do so after the interview.

12 And just because our official reporters are here with us virtually, as I noted for
13 your lawyer before we got started, if he does need to speak, we ask that you move the
14 camera so that our official reporters can see his face while they hear his voice as well.

15 We will also ask you to please wait until each question is completed before you
16 begin your next response, and we will also try to do our best to not speak over your
17 answers with our next questions. And we do ask that you give a verbal response rather
18 than a nodding or a shaking of your head just so that it enables us to have a clean,
19 accurate record in the transcript.

20 We ask that you provide complete answers based on your best recollection today.
21 If our questions are not clear -- and I certainly anticipate that might be the case -- please
22 do ask for clarification. We will be happy to restate. We certainly want you to
23 understand our questions before you answer. If you do not know the answer to any of
24 our questions, please just say so.

25 And, although this interview today is not under oath, I do want to remind you that

1 it is unlawful to deliberately provide false information to Congress.

2 Do you understand that, Mr. Cutler?

3 Mr. Cutler. Yes, ma'am.

4 [REDACTED] Okay. Thank you.

5 As we go through today, I know your time is valuable, especially during the
6 legislative session, so we are going to try and move through this as quickly as we can
7 today. But, if you do require any breaks, please let us know, and we're happy to
8 accommodate that. That could be just for a few moments for a comfort break, or
9 certainly if there's anything you need to discuss with your attorney during the interview,
10 please just let us know and you can go off video and off camera -- off mute -- we'll mute
11 you, go off sound and camera so that you can have that conference with your lawyer.

12 Mr. Cutler. Okay.

13 [REDACTED] Okay.

14 Mr. Cutler. Thank you very much.

15 [REDACTED] Any questions or anything else you would like to address before we
16 get going?

17 Mr. Cutler. I don't think.

18 Anything, Mark?

19 Mr. Rush. No.

20 Mr. Cutler. No. We're all right, [REDACTED] Go ahead.

21 [REDACTED] Okay. Great. Thank you very much.

22 EXAMINATION

23 BY [REDACTED]

24 Q So, Speaker Cutler, I would like to just go over very briefly some of your
25 personal background before we get into the events surrounding the November 2020

1 election.

2 So why you don't tell us first where you're from.

3 A I'm from southern Lancaster County, Peach Bottom, Pennsylvania.

4 Q That's great.

5 And what was your educational background?

6 A I was originally an X-ray tech and worked in hospital administration. My
7 bachelor's degree is from Lebanon Valley College. It's in healthcare admin with a minor
8 in business. And then, when I was 28, I went back to law school, specifically for
9 healthcare law, but then ran for office my third year in law school and then won, and
10 that's the seat that I currently hold.

11 Q That's great.

12 So how long have you been in the Pennsylvania House?

13 A I'm in my eighth term, so I'm in my 16th year. November the 30th will be
14 the end of this term, and December 1st will be the start of the next one.

15 Q Okay. Great.

16 And how long -- during that service in the Pennsylvania Assembly, how long have
17 you served as speaker?

18 A Just under 2 years. It was June of 2020 that I became speaker. It was
19 midterm.

20 Q Okay. Great.

21 And you remained as speaker throughout the time period of the November 2020
22 Presidential election. Is that right?

23 A Through November the 30th. However, we are not a continuous body, so I
24 ceased being speaker on November the 30th, and then, from December the 1st until the
25 first Tuesday in January, which I believe was January the 5th, I was known as the

1 speaker-designate. And then that's actually our first official order of business when we
2 return to session on the first Tuesday.

3 Q Great. Okay.

4 And, generally speaking, what is the role of the speaker in the Pennsylvania
5 General Assembly?

6 A It's more administrative. You know, we schedule the session days, and
7 generally it's from the majority party but not always. In fact, my first term that was not
8 the case 15 years ago. And it really is more administrative when it comes to the bills,
9 the amendments, review them with the parliamentarian, determine if things are no
10 order. We have very strict constitutional requirements on single subject and the ability
11 to amend and/or expand bills, and it's really my role to check those out each morning
12 before the start of session.

13 Q Okay. Thank you.

14 So I would like to direct your attention to the November 2020 Presidential
15 election. We will start a little bit before the election itself, but the primary focus of our
16 discussion today, this interview, will be from the November 3, 2020, election through
17 January 6th and the events that you observed or interactions that you had during that
18 time period that are relevant to our inquiry.

19 And the point that I would like to direct you to is, in October 2020, we are aware
20 that there was an article published in The Atlantic Magazine. I think that article was
21 actually published in late September, and it referred to the possibility that the Trump
22 campaign would test the principle of State legislatures appointing electors following a
23 Presidential campaign.

24 Are you familiar with that article?

25 A I'm actually not --

1 Q Okay.

2 A -- familiar with that article.

3 Q Okay. On a similar subject, there was an op-ed published in October, on
4 October 19, 2020, by one of your colleagues on the house side, majority leader
5 Benninghoff, and on the senate side by then president pro tem, Jake Corman.

6 Are you familiar with that op-ed they published?

7 A I'm not specifically aware of it, but I am aware of a letter that was also
8 publicly available, which I believe has been provided to you, but I believe the substance
9 was similar.

10 Q Oh, okay. Tell us what you recall about the substance of those
11 communications.

12 A The letter was sort of an open letter/press release that we did have after the
13 election that explained the constitutional prohibition against the legislature appointing
14 our electors and that there was a very well defined legal path for either challenging
15 elections, auditing -- or excuse me -- challenging elections, challenging electors, and/or
16 asking for a recount.

17 Q Okay. Great.

18 And I think we'll discuss the post-election statement in a little bit more detail later.

19 A Okay.

20 Q But I did want to ask whether any such -- whether this topic of the
21 constitutional prohibition regarding the legislature's role, as you framed it, whether that
22 came up before the election at all.

23 A Not that I recall.

24 Q So you don't recall having any conversations about the possibility of
25 legislature playing a role in selecting the winner of the Presidential campaign before the

1 election itself?

2 A No. Our law is very clear on that, so -- it's actually been that way since the
3 very first Presidential election. We've always awarded electors to the winner of the
4 popular vote here in Pennsylvania, and then specifically we do have that constitutional
5 prohibition as well. But, if you change how electors are awarded, it has to be
6 prospective, not retroactive.

7 Q Okay. And how did you come to understand the constitutional prohibition?
8 Is that something that you've had to, you know, be involved with in the past?

9 A Not previously. However, particularly -- I mean, we were involved in
10 multiple lawsuits, and this is probably more post-election, which we can get into during
11 that window, but the truth of the matter is that some of the remedies they were asking
12 for was for the legislature to appoint alternate electors. And I actually think the
13 constitutional provision is pretty clear on that point.

14 Q And pretty clear in that it prohibits --

15 A Correct.

16 Q -- such an action?

17 Okay. Thank you.

18 Did you have any conversations with Senator Corman or Representative
19 Benninghoff about their op-ed which says that lawmakers have no role to play in deciding
20 the outcome of the Presidential election?

21 A Only to the extent that we included it in the letter or the press release that
22 we issued after --

23 Q Okay. Did you speak to them before the election at all?

24 A Not that I recall.

25 Q Okay. Okay. So then let's talk a little bit about November 3, 2020, the

1 Presidential election.

2 What was your understanding on election day and night about how the election
3 had gone in Pennsylvania?

4 A In terms of election day itself, I'm actually my own local committeeman, so I
5 worked my own poll. And, you know, it was a very busy election. I knew turnout was
6 high.

7 From the prior primary, I also recognized that there was a large number of mail-in
8 ballots that were a component part of that tally that as of yet had to be tallied. We had
9 previously tried unsuccessfully to allow for those to be counted prior to election day, but
10 the Governor had threatened to veto the bill.

11 I had actually raised the issue of the problem of counting back in I believe it was
12 February of 2020, because we had run the first election with mail-in ballots. There was
13 a substantial delay in getting some of the results, and that was an off-year election. And
14 I was at a press club event sometime in February as leader, and a press question came up
15 about the problems with late ballots. We outlined that. We tried to fix it legislatively
16 but were unsuccessful.

17 So I knew that there was a large number of outstanding ballots, and I also knew
18 that it would take a while to count those.

19 Q Okay. What was your expectation either leading up to or on election day
20 itself about how close the race would be in Pennsylvania?

21 A Um, I thought it was going to be close, just as it was -- you know, just like it
22 had been in 2016, but I really didn't have an expectation, you know, one way or the other
23 in terms of what the outcome would be.

24 Q Okay. Did there come a time after election day when Members of
25 Congress came to visit you in your office?

1 A Yes. I don't recall the day, but I know it was the week after the election,
2 Congressman Perry and Congressman Jordan had come and raised some questions
3 regarding what I'll call the legal process and what the options were.

4 Q Okay. In our earlier informal interview in your office, you recalled that you
5 thought it took place around November 6th.

6 Does that sound consistent?

7 A Yes. It was within a couple of days --

8 Q Okay.

9 A -- post-election.

10 Q Right after the election. Okay.

11 So Representatives Perry and Jordan, are they both individuals that are known to
12 you before this meeting?

13 A Yes. Obviously, I knew Mr. Jordan just from the news, but Congressman
14 Perry and myself had actually served together here in the statehouse --

15 Q Okay.

16 A -- for about two terms I believe.

17 Q Was this your first meeting with Representative Jordan?

18 A Yes, in person.

19 Q Okay. Had you met with him by phone or otherwise --

20 A No, ma'am.

21 Q -- before?

22 A No, not at all actually, but it was just the first meeting.

23 Q Okay. Great.

24 Any explanation for why a Member of Congress not from Pennsylvania was in your
25 office meeting with you about the election?

1 A Um, they really had expressed it was more of an information question, you
2 know, what could be done, what was, you know, the process in terms of our election
3 laws.

4 You know, at this point, we'd probably had close to two dozen lawsuits heading up
5 to the election. So the legal ins and outs of the voting law and some of the court orders
6 that changed the law were very well known to me at that point.

7 Q Tell me a little bit more about that. What were the questions that
8 Representatives Perry and Jordan were asking you to the extent you can remember
9 specifically? Were they asking about specific cases or specific issues?

10 A Questions of, you know, what was the election process, you know, what was
11 the certification process. That's all outlined statutorily. If you wish to challenge or had
12 questions about, you know, alleged fraud, what was the process, you know, we had set
13 up an email to accept, you know, people who alleged to have seen fraud. We
14 forwarded -- you know, we collected information, forwarded it to the appropriate people
15 because we don't have, you know, a prosecutorial arm in the legislature.

16 We do try to improve our voting laws, which is what we had done prior to the
17 election, through that information gathering. And we also had a -- you know, we also
18 had had a series of data reports that we had collected here in the Commonwealth after
19 making that change. I believe it was Act 35 that outlined that we wanted to know, you
20 know, how many, you know, mail-in votes were rejected, how many were requested, just
21 so we could understand the process better. And they continued to issue that report
22 both in the primary and the general election so we could modify the law accordingly.

23 And then it was really -- we also had a case at that time regarding the late ballots.
24 The court order -- our Supreme Court order had ordered that we accept ballots for up to
25 3 days past the election day. That was directly contrary to the plain language of the

1 statute, which has an 8 p.m. deadline on election day. And so they had some questions
2 about that.

3 Now, we did get a court order from the U.S. Supreme Court that said: Segregate
4 those ballots; we'll figure out the legality later.

5 My recollection was that was about 9,700 or 9,800 ballots total, which we then did
6 continue to litigate after the election.

7 Q And we'll get -- just to close this loop and then get back to our conversation
8 about Representatives Perry and Jordan, but am I correct that it turned out that the
9 margin of victory in the race was greater than the number of ballots that had been
10 segregated pursuant to that order and, thus --

11 A Yes, ma'am.

12 Q -- those ballots were not outcome determinative?

13 A Yes. Our ballots that we were litigating over because of the plain language
14 of the statute was, as I said, 9,700 or 9,800. I think the official margin ended up being
15 close to over 80,000, so it was substantially wider.

16 Q Okay. Thank you.

17 So, back to the meeting in your office with Representatives Perry and Jordan, was
18 it there in your statehouse in the capital office?

19 A Yes, ma'am.

20 Q Okay. Did they bring up any discussion of allegations, specific, you know,
21 allegations of fraud connected to the election?

22 A Nothing specific, other than the question of the legality of the late ballots.

23 Q Okay.

24 A And, at that point, that was still an open question because we didn't have
25 them all collected.

1 Q Understood.

2 And did you share with them any of the allegations that had come into the
3 account that you set up to --

4 A No, ma'am.

5 Q -- receive?

6 A No. I actually -- that was monitored by staff. I was not aware of all of
7 those individual allegations --

8 Q Okay.

9 A -- in terms of specifics.

10 Q Did Representative Perry or Jordan, did either of them mention any
11 discussions that they had had with President Trump?

12 A No.

13 Q Okay. And did they ever, you know, get the sense that -- did you ever get
14 the sense that they were making an ask, or was it merely an information-gathering
15 conversation?

16 A No. For me I did not feel like there was an ask, other than, you know, what
17 were the legal options.

18 Q Okay. Understood.

19 Any further discussion after that meeting in your office? Did you have any
20 further discussion with either Representative Perry or Jordan?

21 A Not that I recall.

22 Q Okay. So then I think walking -- we'll try to stay chronological, to the extent
23 possible here, and this is not meant to be a memory test going back now more than a
24 year. So, if there's anything -- you know, a lot of this is from our earlier conversation
25 and other documents that you and your lawyers provided to us --

1 A Okay.

2 Q -- pursuant to our request. So I'll ask you some questions, and if it's helpful
3 to refer to any documents to help, you know, pinpoint the time, we're happy to do so.

4 A Okay.

5 Q But I understand that, shortly after that meeting in your office with
6 Representatives Perry and Jordan on November 10th, that you made sort of a call for the
7 house State government committee to conduct an investigation of the election and in
8 particular requested an audit be conducted by the Governor before the certification of
9 the election.

10 Can you tell us a little bit about the context and why you made those statements?

11 A Sure. In terms of the audit -- and it's important to remember an audit is
12 very different than a recount. So an audit is not just what are the numbers. It is, were
13 the policies and procedures followed in arriving at those numbers?

14 So that was consistent with the data request that we had done on the two prior
15 reports, both on the primary and the general election. In terms of trying to understand
16 what happened, we wanted to make sure and had subsequently found out that, in fact,
17 counties did handle ballots differently. Some counties allowed ballot curing, which is
18 not specifically allowed under our law. They would contact the voters and give them an
19 opportunity to correct their ballot. Some counties handled late ballots differently than
20 others and/or incomplete ballots differently than others. That has all since come to
21 light.

22 So the audit was really a request to find out, were the policies and procedures
23 followed so that people could have some level of certainty with the numbers once they
24 were certified?

25 In terms of the State government committee itself, we had asked the chairman

1 and the committee, they were the ones who had really updated the election law I think a
2 total of five times up to that point. They had done a series of hearings and made some
3 suggested improvements, incremental improvements through each one of those bills,
4 most of which were based off of the data that we had collected, and that was just a
5 continuation of that process to determine, once again, if the policies and procedures
6 were followed because the audit request went to the executive branch, but I also felt like
7 we had a duty legislatively to do the same thing.

8 Q Okay. Understood.

9 Was any of that -- the audit conducted, could any of the findings of that audit have
10 had an impact on the certification of the result of the election?

11 A That would have -- regarding the executive branch, you would have to check
12 with the Governor. I don't know. Legislatively, for our purpose, it was to gather the
13 necessary information to make any changes to the law that might be necessary, again,
14 because of our constitutional prohibition.

15 Q Understood. Okay.

16 And ultimately the outcome of the Presidential election, that President Biden won
17 Pennsylvania, was certified on November 24, 2020. Is that correct?

18 A I know it was certified. I actually thought it was a little later in the month,
19 to be honest.

20 Q Is --

21 A But I'll trust you on the dates.

22 Q Well, and I can go back and double-check it, but by the end of November --

23 A By the end of November, it had been certified, yes, ma'am.

24 Q Okay. Great.

25 Are you aware of a hearing that was conducted in Gettysburg, Pennsylvania,

1 around November 25, 2020?

2 A Yes. It was widely covered in the news.

3 Q Yes. Several attorneys purporting to represent President Trump appeared,
4 as well as other individuals, and some members of your caucus. So why don't you tell us
5 what you recall about the circumstances of how that hearing came to be convened.

6 A I just know that there was a hearing in Gettysburg that was initially
7 undertaken by the senate, there were some house members that attended, and that it
8 involved allegations regarding the election. You know, in terms of specific outcomes or
9 anything there, I'm not really sure. You know, we didn't have any legislative action on
10 our side that was contingent upon that hearing.

11 Q Okay. Was it an official hearing of the legislature in Pennsylvania or sort of
12 a nonofficial, you know, committee hearing?

13 A You would have to check with the senate on that. I'm not sure what their
14 rules are or which committee hosted that. You know, I know what the requirements are
15 for the house but not for the senate.

16 Q Okay. Would it have satisfied the requirements for a house committee
17 hearing?

18 A In regards to the hearing process, it would have been a State government
19 hearing, and our State government committee chair was not there, so I would say no.

20 Q Okay. I understand that it may have been convened under the auspices of
21 a policy committee. Is that different than a sort of standing committee --

22 A Yes, ma'am.

23 Q -- in the legislature?

24 A Yes, ma'am. I'm sorry. I didn't mean to speak over you.

25 Q Oh, no. No worries at all.

1 How so? How is the policy committee different?

2 A A policy committee is typically only made up of -- unless it's a joint policy
3 committee. A policy committee itself is only made up of members of a single party,
4 both Republican and Democrat. Each caucus and each chamber has one whereas a
5 State government committee, since that was our committee of jurisdiction here in the
6 house, it would have -- it would be made up of both majority and minority leaders.

7 Q Okay. Understood.

8 Were you invited to participate in the hearing in Gettysburg?

9 A I'm sure I probably was invited at some point, but I did not attend.

10 Q Okay. Was that an affirmative decision on your part not to take part in the
11 hearing?

12 A No. I was very busy. We were getting ready for the upcoming session in
13 terms of what else we were, you know, looking at in terms of calendar. And being that
14 we terminate on November the 30th, we have to actually start planning our swearing-in
15 day ceremonies long before that. And particularly with COVID this year, we ended up
16 doing it in four waves of 50 members each so that we could space. So administratively
17 that took a lot of maneuvering to make sure that we had all of the people evenly spaced
18 and the families could get in and out and they weren't stuck in hallways going past each
19 other. So we were focused solely on that.

20 Q Okay. Did you come to learn about any of the allegations of election fraud
21 that were discussed during that hearing?

22 A Yes. They were widely reported in the news, and some of them were
23 consistent with, you know, what we had heard, you know, anecdotally of constituents
24 contacting the office.

25 Q Okay. Tell us just generally, not -- you know, you don't have to recall

1 everyone, but are there any examples of the types of allegation that you recall having,
2 you know, been raised to your office and that you said might be consistent with what was
3 discussed at that hearing?

4 A Again, there were questions regarding the late ballots, which that had been
5 in the news at that time period, because we had ongoing litigation at the U.S. Supreme
6 Court on that, as well as some of the other court-ordered changes to the law, specifically
7 drop boxes, which are not -- they're not actually enumerated anywhere in the
8 Commonwealth law. They are a creation of the Department of State that was issued
9 through guidance to the counties. And, once again, the counties actually -- each county
10 treated the use of drop boxes very differently. And ballot harvesting is illegal here, and
11 there were questions about ballot harvesting as well.

12 Q Okay. Did you ever learn of evidence that supported the existence of
13 any -- you know, sort of prove the truth or existence of any of the allegations of fraud that
14 were raised during that Gettysburg hearing?

15 A Not specifically, no, ma'am.

16 Q Okay. So I would like to ask you now about some outreach that you
17 received from President Trump and his sort of allies, members of his campaign, during the
18 post-election time period.

19 So I think we'll go through this roughly chronologically. And let me just ask
20 you -- the first thing that I will, you know, play for you is a voicemail that I understand
21 that you received around November 26th from the President's lawyer, Rudy Giuliani.

22 Before we do that, did you receive any other outreach from the President or
23 others, you know, purporting to act on his behalf before getting that voicemail?

24 A Not that I'm aware of --

25 Q Okay.

1 A -- chronologically. We had forwarded you all the voicemails that I still had
2 and/or screenshots of that information, although, truthfully, I did not listen to the
3 voicemails when they came in. I have a feature on my phone that roughly transcribes it,
4 and so I've not actually listened to them in their entirety.

5 Q Okay. Even to today, you haven't necessarily listened to them?

6 A Yes, ma'am, that's correct.

7 Q Okay.

8 A Because I'm very familiar with the rules of refreshing your memory prior to
9 being deposed.

10 Q That's right.

11 Okay. Well, I will force you to listen to them --

12 A That's okay.

13 Q -- today. Okay. Let's start with what we have as exhibit 1. This is a
14 voicemail that I understand that Mr. Giuliani left for you on November 26, 2020.

15 [Audio recording played.]

16



17 Q Speaker Cutler, were you able to hear that?

18 A Yes, ma'am.

19 Q I didn't want to interrupt, but it looked like it was a bit faint for the volume.

20 Was that okay?

21 A Yes, ma'am.

22 Q All right. So had you listened to that voicemail, this particular one, before?

23 A No, ma'am.

24 Q Okay. When you did receive the voicemail, I think you said you could see
25 some of it transcribed on your phone. Is that right?

1 A Yes, correct.

2 Q And what did you think when you saw that Mayor Giuliani was just leaving a
3 voicemail for you on the phone?

4 A One of my concerns throughout the entire process was, because of the
5 ongoing litigation, that it would be viewed as ex parte contact because one of the specific
6 remedies that they were asking for was for us to, you know, if the court so ordered,
7 adjudicate where the electors would go, and as the speaker, I would be the presiding
8 officer over that process. So I had contacted our attorneys at that time and said: Hey,
9 they're trying to get ahold of me. Can you please let them know that I won't be
10 returning their calls?

11 Q Okay. And who was it that you contacted, your attorneys, about this topic?

12 A It would have been Rod Corey and Jim Mann, our two caucus counsel, I
13 guess is their official title.

14 Q Okay. Great.

15 And I'm not asking you for the content of your discussions with your caucus
16 counsel, but after you made this outreach to them, did you ever learn whether, in fact,
17 they did inform Mr. Giuliani of your wishes that he no longer contact you?

18 A Yes. It was my understanding that that message was conveyed.

19 Q Okay. Nonetheless, did Mr. Giuliani continue to contact you?

20 A Yes, because there was another voicemail, at least one, which I think we
21 forwarded you, that he actually specifically mentioned that.

22 Q Meaning your comment that you thought that they were ex parte
23 communications and should cease?

24 A Correct.

25 Q Okay. And did you receive other phone calls or voicemails from other

1 lawyers representing President Trump?

2 A Ms. Jenna Ellis as well; although one of the calls that Mr. Giuliani called on
3 was actually -- at least they indicated it was her number. So I'm not sure which
4 voicemail was tied to which number.

5 Q Okay. Going back to your conversation with your lawyers or your
6 instruction to them, do you have a memory of how soon after you received this first
7 voicemail on November 26th that you reached out to your lawyers?

8 A No, ma'am, I do not.

9 Q Okay. Was it within, you know, hours, days? Could you, you know,
10 estimate how quickly you spoke to them?

11 A I think it was very soon just because of, you know, the nature of the ongoing
12 litigation on not just our front, but, you know, I know that they also had a Federal case in
13 Williamsport as well.

14 Q Okay. And how soon thereafter, after you spoke to your lawyers, did you
15 come to learn that they had, in fact, passed on your message to Mayor Giuliani?

16 A I don't recall.

17 Q Okay. Do you think it was within a day or two of when you gave them that
18 instruction, or was it a longer time period?

19 A I think that would be likely because they're very good about following up
20 when requested.

21 Q Okay. And the voicemail that -- this first one at least that Mayor Giuliani
22 left for you, was this on an official phone or on your personal device?

23 A My personal phone.

24 Q Okay. Were all the other voicemails that you received also left on your
25 personal phone?

1 A Yes, ma'am.

2 Q Okay. Do you have any idea of how Mayor Giuliani got your phone
3 number?

4 A No, ma'am.

5 Q Had you ever had any interactions or dealings with him before?

6 A No, I had not.

7 Q Okay. Okay. So I just wanted to -- and recognizing that you may have just
8 listened to the full, you know, content of the voicemail with us here today, I wanted to
9 ask you for your reaction to a couple of things that Mayor Giuliani said on that message.
10 So one of them is that he was clearly asking for a meeting to talk with you and I
11 think, you know, indicates that he wished to discuss with you some evidence or
12 allegations of election fraud.

13 Is that consistent with what you heard?

14 A Yes, ma'am.

15 Q Okay. He referred on the voicemail to, quote, what happened yesterday,
16 end quote. And being that this was the day after that Gettysburg hearing, do you think
17 that that is what he was referring to?

18 A I have no idea.

19 Q Okay. And then he remarked in the voicemail, sort of stressed the
20 importance of what he was trying to say to you by saying: We think really -- we think
21 this is really enormously important not just for the President but also really important for
22 the future of our party and for the country.

23 What's your reaction to him -- that portion of his voicemail?

24 A My own reaction in hearing this was the facts are what the facts are and the
25 law is what the law is, and that's consistently -- you know, anytime I communicated with

1 him or the President himself, that's what I tried to convey when we were discussing the
2 issues. Our law was very clear in terms of the pathways that are available, both the
3 candidates as well as court challenges, and I also think that the prohibitions are equally
4 clear in terms of some of the limits of the legislative powers.

5 Q Okay. Understood.

6 Do you think that he's emphasizing when he says it's important for the
7 President -- presumably meaning him as a candidate for office -- but then also really
8 important for the future of our party. So it seems to me like he's invoking the fact that
9 you're both members of the Republican Party to emphasize, you know, put this in the
10 context of you both being Republicans and wishing for you to meet with him and
11 presumably call him back and then meet with him.

12 Do you think that's a fair interpretation of what he was saying there?

13 A I think that could be one interpretation, but you would have to ask him what
14 he specifically meant to that. I'm not going to guess as to what he was implying.

15 Q Yep. Understood.

16 Okay. So anything else that you did in response to your receiving this voicemail
17 from Mayor Giuliani?

18 A No, ma'am, not that I recall.

19 Q Okay. I will -- we'll play you a couple of other voicemails right now.

20 A Okay.

21 Q They precede what -- it looks like from the information that you provided to
22 us and -- the documents that you provided to us and the information provided by your
23 lawyer, that there were basically one a day for several days. So the one that we just
24 listened to was November 26th. We'll next listen to a voicemail left by Jenna Ellis on
25 November 27th, another one from Mayor Giuliani on November 28th, and then another

1 one from Mayor Giuliani on November 29th.

2 A Okay.

3 Q First of all, before we go into them, does that sound consistent with your
4 recollection that the voicemails continued at, you know, roughly once a day for several
5 days?

6 A Yes, ma'am, although that's because, at your request, we did go in and figure
7 out which date stamps corresponded with which messages, but that does sound
8 consistent.

9 Q Okay. Great.

10 Do you remember whether you listened to any of the other voicemails that came
11 in?

12 A No, ma'am.

13 Q Okay. All right. We'll play --

14 A I actually -- excuse me, [REDACTED] I want it to be clear, I did not listen to them,
15 not that I don't recall. I did not listen -- do not remember listening to any of them.

16 Q Got it. Okay. Thank you.

17 Okay. So we'll play for you now exhibits 2, 3, and 4.

18 [Audio recordings played.]

19

BY [REDACTED]

20 Q Okay. Those are the three that we wanted to play for you, and I should
21 correct my statement: They're exhibits 2, 3 and 5, contrary to what I said before.

22 So just a couple of questions for you about those voicemails, Speaker Cutler. The
23 first one that Jenna Ellis left for you on your personal phone on November 27th, she
24 made two comments I wanted to get your reaction to. The first was that she wanted to
25 thank the Pennsylvania legislature for, quote, getting on board.

1 What's your reaction to that statement? What do you think that meant?

2 A I have no idea what she's referring to.

3 Q Okay. What about her statement about the Pennsylvania legislature doing
4 its Article II duties?

5 A I believe that she was likely confused about the Presidential elector
6 certification process. Many folks nationally were very confused because I don't believe
7 they were particularly familiar with our specific constitutional provisions and how that is
8 handled, both in terms of certification as well as the challenges.

9 Q Okay. And can you explain that to us a little bit more? So I think that she
10 was -- I assume what she meant about Article II duties was, in the Federal Constitution,
11 the delegation of authority to the State legislature is to select the time, manner, and
12 place of elections.

13 What's your understanding of how that interacts with obligations or, you know,
14 the pronouncements of the Pennsylvania constitution about the power of the legislature?

15 A I do believe that the Federal Constitution does delegate us that authority.
16 Prior general assemblies here, however, further delegated that authority, part through
17 the constitution, part through the statute that set up our election process and our
18 certification process.

19 Specific to the certification process and by virtue of being a commonwealth, we're
20 a very decentralized form of government. So, for example, our counties run the
21 election, not the State. So the counties will oversee at the municipal and precinct level
22 all of the elections. They tally the results. They then provide a countywide total that is
23 given to our Department of State, which is then certified by the Department of State,
24 which is then sent to the National Archives, and that information is transmitted at that
25 time regarding the Presidential electors.

1 In addition to that, we have a prohibition, as we have alluded to previously, that
2 while we can change the process by which Presidential electors are awarded, the current
3 process is it goes to the individual who received the most votes. And if we were to
4 make a change, it is only prospective, not retroactive.

5 And so I assume she's talking about that, but that was something that we
6 continually had to explain, not just through reporter questions but also through court
7 documents and other discussions, as well as debate on some of the laws as well.

8 Q So then I wanted to -- oh, sorry. I heard a bit of an echo for a moment.

9 I wanted to direct your attention to the final voicemail that we played to you.
10 That was a voicemail left for you on November 29, 2020, by Mayor Giuliani. In it, he
11 seems to refer back to the comments that you shared with us that you told your lawyers
12 to share with him about your belief that his further contact with you would be
13 inappropriate and essentially an ex parte communication.

14 Is that fair? Did you hear that also?

15 A Yes, I did.

16 Q Okay. Again, I wanted to get your reaction to Mayor Giuliani, well, just in
17 general, continuing to contact you even after your statement through your lawyers that
18 you thought it would be inappropriate for him to do so.

19 How did you feel about that at the time when you saw the voicemail come in?

20 Oh, I'm sorry, Speaker Cutler, we can't hear you. Looks like you might be muted
21 now.

22 A How about now?

23 Q There we go, yep.

24 A We lost audio there. Sorry. I was trying to get rid of the echo.

25 I thought it was inappropriate the first time as well as the last time that I got the

1 message.

2 Q Okay. Did you take any action after receiving the additional voicemails?

3 A I just believe I notified the attorneys that the contacts were continuing.

4 Q Okay. Did you come to learn whether they communicated with Mayor
5 Giuliani or anyone else about that?

6 A I do not recall.

7 Q Okay. What's your reaction to a couple of comments that Mayor Giuliani
8 made in that voicemail again emphasizing the fact that he wanted to talk with you as a
9 fellow Republican, referring to the interests of the party, and concluding by saying:
10 We're on the same side.

11 What's your reaction to why you think he was making those comments?

12 A Well, given that this was the first time that I've actually heard that, I'm not
13 sure that my reaction really has much bearing on the course of action that I took at that
14 time. For me it's always been about, quite frankly, the clarity of the law and the facts as
15 they were presented. Admittedly, it's probably more of a legalistic approach. You
16 know, any claims of fraud or concerns should -- you know, it was our hope that they be
17 addressed. That's why we sent the audit letter, you know. And despite that, you
18 know, a certification proceeded. It was -- you know, it was still -- there were still legal
19 pathways that were available to all of the candidates in terms of both statutorily and
20 constitutionally as they're described. And, you know, that was really the
21 recommendations that had been made throughout the process was, you know, if you
22 wish to pursue them, that's the proper channels to do so.

23 Q And by the proper channels, you're referring to the election contest or other
24 litigation avenues?

25 A Yes, ma'am.

1 Q Okay. What about Mayor Giuliani's statement that if you -- if Pennsylvania
2 certifies the election, you will be certifying, quote, a blatantly false statement to the U.S.
3 Government.

4 What's your reaction to that?

5 A Again, the statute is very clear that, in order to challenge the certification of
6 electors, there's a specific constitutional provision that lays out that process through the
7 Commonwealth court. That was the process that should have been followed. I do not
8 why they chose not to pursue that path.

9 Q Okay. What about the fact that -- it appears that Mr. Giuliani was saying
10 that if you certify the outcome of the election, then you would be committing a potential
11 Federal crime by, you know, making a blatantly false statement to the U.S. Government.

12 What's your reaction to that?

13 A One, I didn't take it that way in terms of my reaction in hearing that right
14 now. But, in terms of the reaction to the process, again, I think the law was very clear.
15 It outlines very specifically how to challenge that. If there were allegations of fraud that
16 were founded, there is legal remedy that's available here in the Commonwealth for that.
17 You can -- one, you can channel -- you can ask for a recount if you think that, you know,
18 perhaps they missed votes. Two, you can challenge the actual certification of the
19 electors themselves through Commonwealth court. And, three -- and we actually have
20 this going on in Lancaster County right now as we speak -- any three voters per precinct
21 can put up, I think it's \$50 per voter, and they can demand a recount of that individual
22 precinct. All of those options were available. To the best of my knowledge, none of
23 them were utilized.

24 Q None of them were utilized by the Trump campaign following the 2020
25 election?

1 A Yes, ma'am.

2 Q Okay. There were several cases pending in Pennsylvania, some of which
3 involves the Trump campaign directly and others who had a similar goal in mind of
4 achieving the outcome of having President Trump be certified as the winner of the
5 Presidential election in Pennsylvania.

6 Those litigation matters, am I right, they don't fall into those categories that you
7 just described to us as the sort of statutorily prescribed ways to challenge the outcome of
8 the election? Is that fair?

9 A I believe so, yes.

10 Q Okay. What generally is your sense of the types of litigation matters that
11 were being brought by people like Mayor Giuliani or others acting for President Trump?

12 A The only one that I'm familiar with is the Williamsport case where he was
13 acting as lead counsel, but, admittedly, my understanding of that specific case was limited
14 to the news coverage there, and I did peruse some of the briefs that were filed as well.
15 However, it's also my recollection that, during that proceeding, it was specifically stated
16 that there was no fraud and that they were not there to litigate fraud.

17 Q Understood. I think I know what you're referring to. I think it was
18 reported widely that Mayor Giuliani appeared himself in court and made a statement
19 similar to the one that you just relayed to us, that the case was not a fraud case. Is that
20 right?

21 A Correct.

22 Q Okay. Did you follow that case through to the end? Do you know what
23 the conclusion was of that matter?

24 A I believe it was dismissed with prejudice.

25 Q Okay. All right. So, before we move on, I think there was some text

1 messages that you got around this time period too that I would like to discuss with you,
2 but any other phone calls or voicemails, even if you didn't have them on your phone at
3 the time that we requested them, but that you may recall receiving back in the
4 2020 -- the post-election time period?

5 A Other than --

6 Mr. Rush. Related to this subtopic.

7 Mr. Cutler. Related to this subtopic, no, other than Mr. Eastman's conversation,
8 which I know that we had talked about previously and I assume is coming up later.

9

BY

10 Q Yep, that's right.

11 A Okay.

12 Q We will talk about that too.

13 Okay. So you did produce to us several text messages that you received during
14 this time period as well.

15 Do you recall receiving those?

16 A I do. And then I tugged them however they indicated they were, but I do
17 not know if that's actually who they stated they were.

18 Q Okay. Understood.

19 So the first one I'll show you is exhibit 6, and I think we can just look at page 2.

20 A Yep.

21 Q So this looks like someone under the name Jane Zirkle who purported
22 reaching out to you on behalf of Mayor Giuliani. Through our communications with
23 your counsel, it looks like the time period for when you received this text message was
24 around November 30, 2020. Is that right?

25 A That sounds correct, yes, ma'am.

1 Q Okay. This one it looks like you did respond. Do you remember, you
2 know, your reaction to receiving the text message and your decision about how to
3 respond?

4 A Yes, ma'am.

5 Q And what was it?

6 A Just that for me it continued to be continued contact outside the bounds of,
7 you know, or in line with ex parte contact, which I personally had a problem with given
8 the ongoing nature of not just at this time the court cases but, as the message points out,
9 the announcement of the house committee, which would have been after November the
10 10th.

11 Q Okay. Understood.
12 Did you have any further communications with Ms. Zirkle?

13 A Not that I recall.

14 Q Okay. Is this a person that was known to you at all before receiving this?

15 A No. No, ma'am.

16 Q Okay. There are a few others that we have as exhibit 7 that we'll show you
17 now.

18 There we go. Yeah, on page 2. We'll zoom out a little bit.

19 Are you able to see that one?

20 A Yes, ma'am, I can see it.

21 Q Okay. Great.

22 So, again, based on communications with your attorney, we understand that you
23 received this voice -- this text message, rather, and took a screenshot of it around
24 December 1st of 2020.

25 A Yes.

1 Q And it looks to be a text message from Rudy Giuliani. Is that right?

2 A Yes. That's the number that he had indicated when he called previously
3 that I identified as him, but the actual footage is from Georgia.

4 Q Thank you. Understood.

5 Do you know why Mayor Giuliani was sending you this footage from Georgia?

6 A No, ma'am.

7 Q Okay.

8 A Other than -- I'm not going to assume what he might have been thinking.

9 Q Did it have any relevance to you as a legislator in Pennsylvania?

10 A No. I was wholly involved and focused on all of our ongoing litigation at
11 that point in time here in the Commonwealth.

12 Q Okay. Did this text message also come after the time period where your
13 attorneys had told Mayor Giuliani that you felt contact from him to you was
14 inappropriate and potentially an ex parte communication?

15 A I don't recall what that date was, so I cannot answer that question.

16 Q Okay. Do you remember your reaction when you received this text
17 message?

18 A I remember taking a shot of it and sending it to the lawyers just to keep
19 them in the loop.

20 Q Okay. So, at the time that you received it, you already thought that you
21 would notify your lawyers about the communication. Is that right?

22 A I notified them about everything.

23 Q Got it.

24 Okay. Did you speak to anyone about the substance of this text message
25 regarding these allegations in Georgia?

1 A No, ma'am.

2 Q Okay. If we'll continue in this exhibit on page 4, please, which is another
3 screenshot that you provided to us.

4 Who's the individual with the initials BW and it looks like a first name Bill that sent
5 you this message?

6 A I do not recall.

7 Q Okay. Do you know how you would have had him in your contacts?

8 A I would have saved it at some point, but I don't recall who that is.

9 Q Okay.

10 A Since it only has the first name.

11 Q Sure. Okay.

12 And what about the individual whose tweet is forwarded to you in this text
13 message, Bernard Kerik? Is he known to you?

14 A Yes.

15 Q How do you know him?

16 A I just know of him through Mr. Giuliani.

17 Q Understood.

18 Have you had any direct interactions with Mr. Kerik?

19 A I believe I had one conversation with him when I answered a number I did
20 not recall, but it was very brief.

21 Q Was it around this time period after the election?

22 A It was in the same general window, yes, ma'am.

23 Q Okay. And what did Mr. Kerik say to you when you answered that call?

24 A I actually do not recall, although I would have expressed the same concerns
25 to him regarding ex parte contact because that was a consistent response to anybody

1 who reached out.

2 Q Okay. Did you have any substantive discussion with Mr. Kerik on that
3 occasion?

4 A No, not that I recall. Because once I realized it was somebody from the
5 other camp, my goal was to terminate the phone call as quickly as possible.

6 Q Okay. And the camp meaning the Trump campaign?

7 A Yeah, the Trump campaign. Sorry.

8 Q That's okay.

9 Okay. If we could look at one more in that same exhibit [REDACTED] on page 5 -- two
10 more, I guess.

11 This looks like another screenshot of text messages that you received from
12 somebody by the name of Michael Flynn.

13 Do you remember receiving those?

14 A Yes, ma'am.

15 Q Okay. And who is the Michael Flynn that sent you these messages?

16 A He indicated he was General Flynn, and I had forwarded this to the lawyer at
17 that point in time, and I remember specifically saying I wasn't going to install software
18 that he was asking me to put on my phone.

19 Q Okay. So, in this communication, he invites you to install the Signal app,
20 which is an end-to-end encrypted messaging app. Is that right?

21 A Correct, that's my understanding.

22 Q Okay.

23 A I don't have the program, though.

24 Q Yep. Had you had any communications with General Flynn before this?

25 A No, ma'am.

1 Q How did you know that it was him texting you?

2 A He had indicated that's who it was I'm guessing at some other point.

3 Q So do you think you may have received another text message, in addition to
4 these two, in which he identified himself as General Michael Flynn?

5 A I don't recall, but he is identified as that on the phone, though.

6 Q Okay. And this, again, went to your personal phone?

7 A Yes, ma'am.

8 Q Have you had any in-person or other, you know, interactions by phone or
9 email, text, anything like that, with General Flynn either before or after receiving these
10 text messages?

11 A Not that I recall.

1

2 [2:01 p.m.]

3

BY [REDACTED]

4

Q Okay. Okay. And the last one is on our page 6, exhibit 7. This is another text message with -- it doesn't have a name associated with it, but the number begins with area code 571. Do you know who sent you this message?

7

A I do not.

8

Q Okay. Why was it that you took a screenshot of this one?

9

A All the contacts that I had received I was forwarding to lawyers at that point.

10

Q All the contacts specifically about the outcome of the election?

11

A Anything regarding the election, I was forwarding to our legal team here.

12

Q Okay. Got it. And they address you as Ryan, but perhaps, you know, it was a typo for Bryan with a Y, and ask for a discussion of anomalies, in quotes, in the text message, causing a shift in Pennsylvania, presumably relating to the article that's forwarded or linked above it, the graphics provided there.

16

Do you remember having any discussions with anyone that wanted to talk with you about anomalies or statistical analysis of potential voter fraud?

18

A No, other than I know that it was -- that kind of analysis was widely reported in the press, and I had also gotten some constituent contacts regarding that. However, the data, you know, I'm not sure what data they're referring to in this particular text.

21

Q Understood. Did you come, generally during this time period, to have an opinion about whether there was any veracity to allegations about statistical anomalies that would potentially undermine the outcome of the election?

24

A No.

25

Q Okay. So just generally speaking, though, the news that you -- or the

1 analysis like this that you recall being reported in the news, do you remember whether it
2 caused you to take any action or impacted your assessment of the outcome of the 2020
3 Presidential election?

4 A No, ma'am.

5 Q Okay. Let's go back quickly to exhibit 4, please. So, Speaker Cutler,
6 during this time period when you were receiving this outreach from Mayor Giuliani and
7 others associated with him and acting on behalf of the President, you issued this
8 statement that we have here for you. It's dated November 28th, 2020. Can
9 you -- first, can you see the document okay?

10 A No, I actually need that enlarged. I can't --

11 Q Okay. Let's see here.

12 A That's better. Yeah, that's better.

13 Q Better? Okay.

14 Do you remember issuing this press release or this statement?

15 A Yes.

16 Q Okay. And why did you issue it?

17 A Our members were continuing to get calls about our constitutional powers.
18 So we, myself and the leader, had worked on this in the hopes of explaining the legislative
19 timeline to individuals given the fact that it was 2 days prior to the end of session and
20 anything that we would consider would need 3 days.

21 Q Okay. And from where did you attribute the -- or what was the source of
22 these questions that your members were getting?

23 A I assume they were like mine. Although, you know, all of mine came from
24 constituents who presumably were watching things on the news.

25 Q And did you perceive that there was information out there on the news or

1 potentially on social media that was leading to either, you know, misunderstanding,
2 misapprehension of Pennsylvania law, or causing constituents to reach out to yourself
3 and your colleagues?

4 A Yes. I think there was a broad misunderstanding of not just our law but our
5 constitutional provisions.

6 Q Okay. And --

7 A And that's what we spent the predominant amount of my time explaining to
8 folks, via email, phone calls, or press statements such as this.

9 Q Okay. And to what do you attribute that misunderstanding? How did
10 that come to be, you know, the case?

11 A I do not know, other than I think that folks may not be as up on civics as we
12 once were, and so they don't understand the separation of powers between legislative
13 and the executive branch. And I think that sometimes the media cuts stories short
14 rather than go in depth in the interest of 24-hour news cycle.

15 Q Okay. And, Speaker Cutler, I'll just let you know that a member of the
16 select committee, Representative Schiff, has joined us.

17 [REDACTED] Good afternoon, Mr. Schiff.

18 Mr. Schiff. Good afternoon. And thank you.

19 BY [REDACTED]


20 Q So, Speaker Cutler, if you could just tell us, what do you think the most
21 important, like, what was the salient message that you were hoping to convey through
22 this statement with your colleague Mr. Benninghoff?

23 A The big point, and it was a consistent one, dating, quite frankly, through the
24 entire legislative cycle, which is that there are constitutional guardrails in place on all
25 three branches of government, and regarding this particular process, it's very clearly

1 outlined in the law.

2 Q Okay. Was this prompted by comments about, you know, seeking to have
3 the Pennsylvania legislature take some action to certify electors or otherwise affect the
4 outcome of the 2020 election?

5 A It was specifically in response to member requests. You'd have to talk to
6 them about their individual motivations as to why they contacted either the leader or
7 myself. But the questions really fell into two buckets. Can we do anything, and if so,
8 what. And this was the "if so, what." And we were explaining the legislative
9 constraints that were placed on us constitutionally.

10 Q Okay. And I'll direct your attention -- oh, sorry,  if we could keep that
11 up for just a moment -- to what's the fourth paragraph in this statement. You and your
12 colleague write, It is obvious Pennsylvania's election processes are in dire need of repair.
13 Our work to ensure the chaos and confusion of the 2020 election are not repeated will
14 continue in the next legislative session.

15 What were -- what did you mean and to what were you referring when you said
16 that election processes are in dire need of repair?

17 A I'll speak to me personally, what I believed, and that was directed specifically
18 at the counting of mail-in ballots pre-election day. That was something I had raised in
19 February of 2020. This is November of 2020. And there's nothing wrong
20 than -- there's nothing worse than understanding what is wrong and then having the
21 Governor threaten a veto to fix something that should be fixed, in my opinion.

22 I believe that, as citizens, we are owed the certainty of an election and faith in the
23 process. A part of that is having timely results.

24 The fact -- and I mentioned this in February of that year. The fact that they are
25 late itself allows people to question the process, and I reiterated that again in my letter to

1 the Governor, asking for a specific audit regarding the policies and procedures that the
2 county has followed. That's what I was referring to in terms of being in need of dire
3 repair.

4 In addition to that, the ballot drop boxes that were inserted through guidance and
5 not legally through the legislature was something else that we've continued to work on
6 since that time.

7 All of that work came out of the State Government Committee, which we had
8 commissioned sometime mid-November to begin that hearing process, and that has
9 come into this session as well, resulting in at least one veto of a comprehensive election
10 law update.

11 Q Okay. Thank you.

12 And just to be clear, and referring back to some of your comments earlier in our
13 interview today, is it fair to say, though, that the areas of the Pennsylvania election
14 process that you were referring to as needing repair were more policy and procedure or
15 other, you know, prospective considerations for future legislation and not any type of
16 allegation of election fraud or other allegation that would have undermined the outcome
17 of the election in 2020? Is that fair?

18 A Yes, ma'am. Those are statutorily two very different things. The process
19 for anything regarding a past election has been clearly outlined, as we've discussed.
20 This was prospective, which is why we specifically referenced the next legislative session,
21 meaning that it would be a legislative solution to some of those problems.

22 Q Okay. Thank you.

23 Okay. So switching gears, Speaker Cutler, did there come a time where you
24 received a phone call directly from then-President Trump?

25 A Yes, ma'am.

1 Q Okay. And do you remember when that occurred?

2 A I do not remember the specific date.

3 Q Okay. What about in relation to the outreach from Mayor Giuliani,
4 including the voice mails and text messages that we just went over with you, do you recall
5 whether the call from the President came before, during --

6 A I believe -- I believe it was after.

7 Q After. Okay. Mayor Giuliani's voice mails to you, as we recounted, you
8 had at least one a day for several days in a row, starting right around Thanksgiving of
9 2020.

10 Thinking of the holiday as a kind of marking point, do you remember where, in
11 relation to Thanksgiving, you received your first phone call from President Trump?

12 A Not specifically. I just know that it was in close proximity to the holiday.

13 Q Okay. And so tell us, where were you when you received the phone call?

14 A Originally I got a message, I verified the number prior to calling it back, but in
15 both cases I was at home.

16 Q Okay. And the call came into your personal cell phone also?

17 A Yes, ma'am.

18 Q Okay. And what's the first message that you received that you're referring
19 to related to the call from the President?

20 A Just that it was the Office of the President and he wished to talk.

21 Q Okay. Did you end up speaking with him on that same day that you
22 received that first message?

23 A I believe so.

24 Q Okay. Approximately how long did the phone call last?

25 A I don't recall.

1 Q Okay. Was there anyone else on the call with you on your end at least?

2 A No.

3 Q Okay. Anyone else announced on the call in addition to President Trump?

4 A No.

5 Q Okay.

6 A Not that I'm aware of.

7 Q Oh, sorry. I didn't mean to interrupt.

8 A That's okay. I just said, not that I was aware of.

9 Q Okay. Got it. Thank you.

10 So what can you remember about the contents of the call, the statements or, you
11 know, comments by the President during the phone call?

12 A Specifically, there was a lot of discussion about, again, legal remedies. I
13 categorized it more as a legal briefing in terms of the disposition of the cases.

14 There were still some ongoing cases at that point. Specifically, I believe the Kelly
15 case, which was heading to the United States Supreme Court. I don't remember where
16 it was from a procedural standpoint, but that's ultimately where it ended up, which was
17 challenging the validity of the mail-in ballots.

18 And so he was asking questions about, well, if -- you know, if we wanted to do
19 something, what were the options. I outlined the three options that I described earlier
20 during this video conference, and that was really about it.

21 Q Okay. So when the President said, if -- I think as you just said -- if we
22 wanted to do something, did you take that to mean if the Trump campaign wanted to do
23 something or other -- or some other person?

24 A I, at that time, I assumed it was him and his legal team.

25 Q Understood. And not something that he was asking for you and he to do

1 together as the we?

2 A No, ma'am. I did not take it that way.

3 Q Okay.

4 A Because during that conversation, I was equally clear at that time regarding
5 the constitutional peculiarities of Pennsylvania, that, you know, the electoral college, you
6 know, the electors are very specifically outlined both in statute and both constitutionally.
7 And, you know, we walked through that process as well. So I believe I made it very clear
8 on what the proper legal remedies would be.

9 Q Okay. And when you said that you made it clear about the possible legal
10 remedies, what do you recall saying on that topic to the President?

11 A I specifically asked them why they didn't file for a recount. And I also
12 discussed, you know, some of the other -- you know, what I'll call the post-certification
13 challenges that are outlined in our statutes.

14 Q And how did the President respond?

15 A When I asked regarding the recount, the response was generally, I don't
16 know, I'll have to check with my attorneys.

17 Q Okay. And when you said that you referred to other avenues of
18 post-election challenges, are you referring to the three that you identified for us earlier,
19 including a recount, a challenge to the certification, or voters in an individual precinct
20 demanding a recount in that precinct?

21 A Yes, ma'am.

22 Q Okay. And how did the President respond to your statements on that
23 point?

24 A He thanked me for the information.

25 Q Okay. Did it sound like it was new information, news to him?

1 A I really couldn't tell.

2 Q Okay. What about the Kelly case? You said that you thought that the
3 Kelly case came up?

4 A Yes.

5 Q What do you remember about who brought it up? Did the President or
6 you?

7 A I don't recall.

8 Q Okay. What do you remember the President saying about the Kelly case?

9 A He had more questions about the legal standing of it, you know, what were
10 the likelihood of success or not. And, you know, I walked through the component parts
11 of Act 77 and what they were specifically challenging.

12 That legal question, which is still ongoing, it's still being challenged now, really is,
13 does the Pennsylvania constitutional requirements on absentee or vote by mail, is that a
14 floor? In other words, you have to provide a minimum of these things, which are, you're
15 out of your area, you have to work, or you're ill and homebound, or is it a ceiling and that
16 you can provide no more.

17 And that's the legal question that was litigated in Act 70 -- on Act 77 in the Kelly
18 case, and it's one that's ongoing to this day. So, arguably, it's still an open-ended legal
19 question.

20 Q Understood. And Act 77 is a bill that was passed in the legislature, in the
21 Republican-controlled legislature of Pennsylvania regarding --

22 A Correct.

23 Q And it took the approach of the constitutional requirement -- I don't want to
24 put words in your mouth, but just to short-circuit what I'm sure is a lengthy procedural
25 history here with the case that remains ongoing. But is it fair to say that the Act 77

1 enacted a mail-in or absentee ballot option that was beyond the sort of interpreting the
2 constitutional requirement as the floor, as you've put it, rather than the ceiling. Is that
3 fair?

4 A Correct. Act 77 was based on the premise that it is the floor and that you
5 had to provide that as a minimum constitutionally, but you could provide more if you
6 would like. That's been the position that we have consistently litigated now for almost 2
7 years.

8 Q And we, meaning the Pennsylvania General Assembly?

9 A Yes, ma'am.

10 Q Okay. Did you share with President Trump on this first phone call your
11 understanding of, as we've just discussed, of Act 77 and the impact on elections in
12 Pennsylvania, or was it -- was it limited to a more procedural conversation?

13 A I don't remember if it was the first conversation or the second one, but I do
14 know that we did discuss it at one point.

15 Q Okay. So let's talk about that. So when do you recall having your second
16 conversation by phone with President Trump?

17 A It was not by phone, [REDACTED] That was the in-person visit, was the second
18 one.

19 Q Oh, understood. So when you later visited the White House, you
20 remember this topic coming up?

21 A Yeah. Absolutely, I do remember that.

22 Q Okay. All right. So let's finish with this phone call then before we talk
23 about the visit.

24 There was reporting at the time that you did receive two phone calls from the
25 President. Do you remember reading that?

1 A I do, and it's inaccurate.

2 Q Inaccurate. Okay. So one phone call that occurred likely around the end
3 of November. Is that fair?

4 A Yes. And then the in-person visit was first week in December, because we
5 went down there to view the Christmas trees.

6 Q Okay. Okay. So before we leave the topic of the phone call that you had
7 with President Trump, did -- were there specific allegations of election fraud discussed on
8 that call?

9 A Not specific ones. There was some general questions regarding if there
10 was fraud, you know, what would the process be, but I don't remember any particular
11 instances.

12 Q Okay. Did the President make any comments? I know you've referenced
13 the Kelly case, which focused on mail-in ballots. Did the President make any statements
14 about allegations of fraud connected to mail-in ballots?

15 A Not that I specifically recall.

16 Q Okay.

17 A Other than the late ballots, but at that point, that was still being litigated.

18 Q Understood. What about Mayor Giuliani and his outreach to you, did that
19 come up when you spoke to the President?

20 A Yeah. I actually -- I had commented that I did not believe that the
21 President was getting good legal advice, and he did respond that he really likes Rudy, he
22 thinks he's a great guy.

23 Q Okay. Understood. And did you mention to the President that Mayor
24 Giuliani had reached out to you, and if so, did you mention that he had persisted in doing
25 so after your attorneys conveyed to him that you thought it was inappropriate?

1 A I had expressed to him that the reason that we had not returned the calls
2 was because of the specific remedies that they were asking for in their litigation at that
3 time. So we did generally talk about that topic, knowing that they were asking the
4 courts for an order that would permit or force us to select the electors. I conveyed to
5 him at that time that I thought any discussion about possible remedies and having to sit
6 essentially as a judge in those cases was inappropriate, which is why I had our lawyers call
7 his lawyers back.

8 Q And how did the President react when you made those statements?

9 A He seemed to understand exactly where I was coming from.

10 Q Okay.

11 A That was at least my understanding of his reaction.

12 Q Okay. Do you recall whether you continued to receive those, you know,
13 outreach, the voice mails or text messages from Mayor Giuliani and his associates after
14 your call with the President?

15 A I don't believe so.

16 Q Okay. Anything else that you can remember about this phone call with
17 President Trump?

18 A No, ma'am.

19 Q Did he ask you to -- I'm sorry?

20 A No. I was going to say I think you've covered all the main highlights of it.

21 Q Okay. Did you interpret him as making any ask or request of you during the
22 phone call?

23 A No, ma'am, I did not.

24 Q Okay. And at the time of this phone call, was the later meeting in person
25 contemplated or discussed?

1 A No, ma'am.

2 Q Okay. Did he invite you to come to the White House when he called you?

3 A No. No, we had gotten the tickets to go see the Christmas trees sometime
4 before. And then I got a call a day or two before that.

5 Q Okay. Did you mention to the President when you spoke on the phone that
6 you had planned to attend to view the Christmas trees?

7 A I actually don't remember.

8 Q Okay. Let's see. I'll look at my notes really quickly. And I'll also pause
9 here to see if Mr. Schiff or any of my colleagues have any questions they'd like to ask.

10 Mr. Schiff. I do not at this time. Thank you.

11 [REDACTED] Okay. Great.

12

BY [REDACTED]

13 Q Okay. So, Speaker Cutler, let's talk about the occurrence that you were just
14 referring to, of meeting with the President in the White House. So you mentioned that
15 you had already received or obtained tickets to visit the White House for a tour of
16 Christmas trees. How did that come to be?

17 A We had reached out to the White House liaison. That is something that
18 this adminis- -- or the prior administration did very well in reaching out to State legislative
19 leaders.

20 You know, we -- for example, I was down to talk about Medicaid policy at one
21 point previously in the Eisenhower Building as well. So we had had contact, and my
22 chief of staff and I had always wanted to see the White House at Christmas. So he had
23 reached out and got us tickets through one of those -- through that office.

24 Q Okay. And do you remember -- do you remember the date of when you
25 went to visit the White House?

1 A Not specifically. I think it was December the 3rd or the 4th, whatever that
2 Thursday is. Because it was the first week of deer season, I remember that.

3 Q Got it. So first week of December 2020?

4 A Yes. Correct.

5 Q Understood. Okay. So tell us, how did your -- well, first, did there come a
6 time where you learned that the visit would be more than just the Christmas trees, that --

7 A Yeah.

8 Q -- you would, in fact, be meeting with the President?

9 A A day or two before, we had gotten a call from the same office, and they had
10 indicated that the President knew we were going to be in town and he was inviting us to
11 stop up to the Oval Office during our time there.

12 And they did -- they did that by basically saying, can you be here 2 hours early
13 for -- which I assumed and was correct -- was for pre-COVID clearance.

14 Q Understood. Okay. And so what happened when you traveled to D.C.,
15 when you arrived at the White House?

16 A We went down, we got COVID-tested. Then we went and saw the trees,
17 and then we were eventually -- after the tour was over, we went over to the west wing,
18 and then eventually -- we waited a little bit in the -- I guess it would be the joint chiefs
19 room or the -- where all the secretary -- the Cabinet room.

20 We waited there until the President was free, and then we went into the Oval
21 Office. Waited for a period of time, I don't recall how long because we didn't have our
22 phones and I don't wear a watch. But then eventually the President did come in then.

23 Q Okay. Did you speak with then-Chief of Staff Mark Meadows?

24 A We did, for a short period of time.

25 Q Okay. And where did that meeting take place or that conversation?

1 A He met us in the Cabinet room and then kind of gave us a little tour of the
2 west wing, and then it ended in his office before he escorted us back to the Cabinet room.

3 Q Okay. And approximately how long do you remember being with
4 Mr. Meadows?

5 A I'm going to guess it was 10 to 15 minutes, but it was -- it was not a long tour
6 or discussion.

7 Q Okay. And present with you in all these interactions was your chief of staff,
8 as well as your wife and your chief of staff's wife. Is that fair? Is that right?

9 A Yes, ma'am. That's correct.

10 Q Okay. And you all went on the tour with Mr. Meadows and were in his
11 office together?

12 A Yes.

13 Q Okay. Did Mr. Meadows -- did your discussion with him relate to the
14 outcome of the 2020 election at all?

15 A It actually focused more on, he was talking to my chief of staff about what I
16 will call chief of staff duties and what it meant to staff somebody. And, you know, he
17 talked a little bit about his time in Congress. He obviously did mention the election, but
18 it was more in passing as opposed to the discussions regarding, you know, the stresses, if
19 you will, of running an office like that, which certainly he and my chief had more in
20 common on that than I did.

21 Q Understood. So when the election did come up, as you said, in passing,
22 what do you remember Mr. Meadows saying about it?

23 A It was the same kind of general questions that the President had raised in
24 terms of, you know, what can be done if there's fraud, how do you fix it. And, you
25 know, we answered them in the same vein as I did with the President.

1 Q Okay. And so for the conversation just with Mr. Meadows, what generally
2 do you remember conveying to him as your response to those comments about, you
3 know, what can be done, or, if there's fraud, how can we fix it?

4 A The same three legal options that had been shared with everybody up to
5 that point and which we had discussed publicly both in press releases and letters.

6 You know, you had to, one, ask for a recount. They missed that window. Two,
7 they could challenge the certification of the electors directly, because we were still before
8 the safe harbor date at that point, through the Commonwealth Court, but they ultimately
9 chose not to, or they could have.

10 The third piece was essentially also void because it dealt with the individual voters
11 in each precinct. So really their only remaining option was the second one on the
12 electors, if they wished to challenge the validity of that.

13 Q And did Mr. Meadows give you any indication of whether he thought there
14 were other options outside of those that you had identified?

15 A No, he did not.

16 Q Okay. And did he give you any sense of his outlook about the likelihood of
17 success in those efforts?

18 A No. And to the best of my knowledge, they didn't undertake the direct
19 challenge of the letter -- or the electors in the Commonwealth Court.

20 Q Okay. Okay. So what happened once your interactions with
21 Mr. Meadows ended and you went to meet with the President?

22 A We were escorted into the Oval Office. We were seated about 8 to 10 feet
23 apart and, you know, in chairs, and also that far away from the President. And he
24 eventually came in.

25 And then we had a similar discussion to what was entailed with the phone call

1 that I had in regards to the questions, in regards to the legal process, a little bit more in
2 depth on the Kelly case, because -- that I do remember because it was in the news at that
3 time.

4 Q Okay. And what do you remember the President saying about the Kelly
5 case in particular?

6 A Just questioned, you know, if it was strong legal -- you know, was it legally
7 based, you know, did it have a, you know, strong likelihood of success or not. And you
8 know, I answered it honestly. I think we got into the floor and the ceiling discussion,
9 regarding, you know, what that looks like.

10 And then -- but the remedy that they were asking for, you know, ran up against,
11 you know -- which was, you know, don't count the votes, reappoint the electors -- ran
12 right up against our constitutional clause.

13 Q And what did you say to the President about the conflict that you've just
14 identified between the remedy that they were seeking in court and your understanding of
15 the Pennsylvania Constitution?

16 A That the court was really more likely just to negate the electors if they were
17 to find in their favor, as opposed to request a reappointment because of the way our
18 constitutional wording was.

19 Q Can you --

20 A So essentially they were asking for the wrong remedy.

21 Q I see. What would've been the proper remedy that they should have
22 sought?

23 A Well, I'm not going to put my mind into the Supreme Court because it's been
24 somewhat partisan at times in terms of how they make decisions, but, you know,
25 according to the constitutional provisions, if they would invalidate the votes, then the

1 remedy they were asking for may have been proper. But if they found other procedural
2 flaws, the remedy would likely have just been a zeroing out.

3 Q Okay. And did you -- outside of the context of the remedy being sought in
4 this litigation, did the topic of the legislature taking some action to either decertify or
5 appoint its own slate of electors, did that come up?

6 A Only in the context of the court case.

7 Q Okay. And what do you remember President Trump saying about that?

8 A He was asking about the court case and the remedies and if I thought it
9 was -- you know, if it had a high likelihood of success. And I was honest that I did not
10 think so, given the fact that I -- you know, obviously we believed it was a floor, not a
11 ceiling, and that's ultimately how the case was decided.

12 Q Okay. How did the President react when you said that?

13 A He actually thanked us for the information. He said that we were sharp
14 and we knew our stuff, and asked us if we wanted to get a picture. So we got --

15 Q And did --

16 A We got pictures and then we left.

17 Q Got it. Do you still have a copy of the photo?

18 A I'm sure I do somewhere, yes, ma'am.

19 Q Okay. What about specific allegations of election fraud, did that come up
20 in your conversation with the President?

21 A It was -- again, it was more general in terms of the allegations of fraud. We
22 did have one specific piece here in Pennsylvania where there was an allegation, a tractor
23 trailer load of ballots coming from New York, I knew that one had been referred to the
24 FBI, DOJ, and the postal service inspectors. And once something like that's referred,
25 obviously they don't talk about it. So that was the extent of my knowledge of that at

1 that time, and I had indicated that to the President as well.

2 Q Did the President bring that up?

3 A I believe I did, in terms of, you know, he asked if I'd heard any -- you know,
4 did I hear about any election fraud, and that one was one specific one that my office had
5 been contacted about and we forwarded to the appropriate folks.

6 Q Okay. Did the President react about the substance of this allegation? Did
7 it seem like he was familiar with it?

8 A No. I really couldn't judge what his thoughts were on that.

9 Q Okay. That's great. Did Mr. Giuliani come up during this conversation in
10 the Oval Office?

11 A Other than the fact that I had commented that I thought he needed better
12 lawyers.

13 Q Got it. And was this the in-person conversation with the President the one
14 where you referred to --

15 A Yes.

16 Q -- you thought that they were ex parte communications coming from
17 Mr. Giuliani to yourself?

18 A Yeah. We did discuss that during the in-person meeting.

19 Q Okay. And what do you recall the President's response being?

20 A Again, he thought Rudy was a great guy and, you know, we kept moving.

21 Q Okay. But did you have any concern about the President hearing you?
22 You think that you made those comments about, you know, what you thought were the
23 actual, you know, legal remedies and what the law was in Pennsylvania and remarked
24 that he was getting bad legal advice in Pennsylvania. Do you think that the President
25 heard those comments that you made?

1 A Yes, ma'am. I do believe he seemed to understand them and -- just based
2 on his reaction and the fact that we stopped discussing it after that. And then he
3 commented that we were sharp and knew the law and knew what was going on here.

4 Q Got it. Okay. Did the possibility -- at this point, this is the early
5 December, so past your November 30th date that you described to us earlier in the, you
6 know, legislative calendar. Did the possibility of the Pennsylvania legislature
7 reconvening come up during this meeting?

8 A We did discuss it, and I had pointed out, once again, that, you know, I was
9 speaker designate, I wasn't actually the speaker at that point, and that the only way we
10 could reconvene sooner would be for the Governor, upon petition by the members,
11 which is another constitutional provision, which we did, and I think we only had 70 or 80
12 folks want to come sign the petition to come back in. So we didn't have the 102 that
13 you needed. And we did discuss that, and by virtue of not getting to 102 prior to the
14 first Tuesday in January, that was, in fact, terminal.

15 Q Okay. But at the time when you're meeting with the President in the first
16 week of December, what was your outlook about the possibility of reconvening the
17 legislature?

18 A I did not see a situation in which the Governor would respond favorably to
19 that petition.

20 Q And did you convey that to President Trump?

21 A Yes.

22 Q Okay. Did you have a sense from him of what the -- if his goal was to, you
23 know, seek the reconvening of the legislature, what the purpose of that would be?

24 A No.

25 Q Okay. Did the topic of the legislature potentially choosing its own electors

1 come up during your meeting with President Trump in the Oval Office?

2 A Only -- only in the negative, in terms of the fact that the constitutional
3 prohibition, I did mention that as we were going through the court cases specific to the
4 remedies.

5 Q Okay. Do you mind describing to us, what do you remember saying to him
6 about the possibility of the legislature selecting its own electors that would be obviously
7 contrary to the ones appointed or certified by the Governor?

8 A Well, first off, it could only happen through a court order because of the
9 constitutional prohibition, but that it was highly unlikely that the court would order such
10 a thing unless there was an actual finding of fraud, which had occurred in Philadelphia
11 back in the nineties where they decertified an election. So, in other words, you had to
12 prove directly the case of fraud.

13 Given the current construct and the lack of cases that were pursuing a fraud claim,
14 that it was highly unlikely and that we were constitutionally, you know, prohibited going
15 forward, and, you know, absent that challenge, that that wouldn't even be a viable
16 remedy.

17 Q Okay. What was the President's reaction?

18 A He seemed to understand. And that was -- that was clear. You know,
19 obviously, you know, as we discussed that, you know, how the meeting ended, I took it to
20 mean that he understood what our position was and what the laws were, because it
21 ended on what I thought was a positive note with getting the picture.

22 Q Okay. Did the topic of the Trump campaign convening their own slate of
23 electors for the electoral college, did that come up in your meeting with President
24 Trump?

25 A No, ma'am.

1 Q Okay. Okay. Before we move on, anything else that you can remember
2 about the, you know, discussion in the Oval Office that we haven't covered already?

3 A No. I think you hit all the highlights again.

4 Q Okay. So I'd like to direct your attention to a tweet that President Trump
5 posted. We'll pull it up onto the screen here. It's exhibit 8.

6 So I think, if I remember correctly, there's a -- you can see this one, I hope?

7 A Yes, I can see it.

8 Q Okay. I think if I remember correctly, we don't have the full picture in front
9 of you, but the link that was embedded in the tweet was originally a tweet that was
10 posted by a Democratic member of the Pennsylvania legislature.

11 A It was.

12 Q And then Trump was retweeting it with his own comments. Is that right?

13 A Correct.

14 Q Okay. So in this tweet, President Trump writes, Thank you to
15 Speaker Cutler and all others in Pennsylvania and elsewhere who fully understand what
16 went on in the 2020 election. It's called total corruption.

17 So, first of all, this is posted on December 8th. This would've been after your
18 meeting with the President. Is that right?

19 A Correct.

20 Q Okay. Do you remember about how long after?

21 A Within the week. But it was my understanding that that was in response to
22 the news reports regarding the letter that we had sent, that our State Government
23 Committee had worked on, regarding, you know, potentially challenging the electors in
24 Congress in January when -- because they were in ongoing litigation that was still
25 there -- and not -- you know, knowing that our certification occurred in November and

1 that the litigation was occurring between then and January the 6th when the electoral
2 college certification process would occur, that was really the crux of that letter.

3 That's presumably his response to that letter and whatever the other tweet was.

4 Q Okay. And what do you remember -- what was your reaction when you
5 saw this tweet at the time?

6 A I actually learned about it from other people, because they called to tell me
7 that it had happened. And it kind of surprised me, to be honest.

8 Q Yeah. How so?

9 A Not every day that the President writes your name on Twitter.

10 Q Understandable.

11 A Yeah, yeah. Although he didn't tag me, even though I am on Twitter, which
12 is why I wasn't aware of it.

13 Q Got it. Okay. So other than the fact that your name appears in this, what
14 about the content of it, in particular, his reference to total corruption, which seems to
15 relate back to when you said went on in the 2020 election in the first sentence. Is that
16 consistent with your conversations with him both on the phone and then in the Oval
17 Office?

18 A I think it's -- in terms of the -- my conversation, both in person and in phone,
19 it was more of a legal briefing. That's obviously his understanding of some of the other
20 allegations that were across the country. But I'm not going to try to guess what he was
21 thinking when he typed that.

22 Q Okay. Do you think -- did you, at the time, December 8th, 2020, did you
23 think that what went on in the 2020 election was total corruption?

24 A In terms of what was ongoing at that point, I was still focused on all of the
25 ongoing legal cases that we had. Obviously, I mentioned the Kelly case earlier.

1 For me, this was really about the facts that, as they were presented, and the laws
2 that needed to be applied to those facts. And as we went through that process, there
3 were other things that I think could have been more thoroughly completed, and that was
4 expressed in my original letter to the Governor at the beginning of November, that they
5 should wait until all litigation had been resolved prior to certifying.

6 And so for me it was, look at numbers, look at the law, look at the facts, and apply
7 it accordingly. And I just wish that they had resolved all the cases prior to certifying it.

8 Q Okay. But when we were looking at your letter earlier, from the beginning
9 of the month, you referred to some of the things that you thought, you know, needed to
10 be repaired, like including counties interpreting guidance about curing ballots differently
11 or other, you know, provisions like that, that might -- were prospective, potential
12 legislation or regulatory changes. Is that fair?

13 A Uh-huh. Yes. I think programmatically there were some changes that
14 were needed, I still do, that's why I voted to change them. Unfortunately, those
15 changes, both in terms of, you know, the components regarding the drop boxes which
16 were illegally inserted, the hard deadline, and the prec canvassing are also important,
17 because that's -- closing all of those questions is what will continue to increase people's
18 faith in the process.

19 The fact that it goes after the election, admittedly, has allowed some people to
20 question that process.

21 Q Okay. Understood. But none of those could fairly be described as corrupt
22 but rather, as you said, you know, programmatic changes or areas for improvement. Is
23 that fair?

24 A Yes.

25 Q Okay. And did you make any statements yourself about potential

1 corruption connected to the 2020 election?

2 A The only thing that I would be aware of is, I believe in the letter it does
3 reference the allegations that should be fully investigated.

4 Q Were you aware of anything that would, you know, reach the level of
5 corruption related to the 2020 election?

6 A I was not personally aware of anything.

7 Q Okay. And including in that would be allegations of election fraud that
8 were, you know, verified and could potentially affect the outcome of the election. Is
9 that also true?

10 A I just want to make sure I understand your question, [REDACTED] Are you saying,
11 was I personally aware of any specific instances of voter fraud?

12 Q Yes. A much better question than the one that I asked.

13 A Okay. No. The only one that I had was the one contact regarding the
14 tractor trailer load of ballots, which we turned over to the appropriate authorities.

15 Q Understood. Okay. Before we leave this, I did want to just go back,
16 earlier in our informal interview, you mentioned a comment that the President made
17 during your in-person meeting about 2024. Do you remember that?

18 A I do.

19 Q What was that, what do you remember him saying?

20 A It was along the lines -- something along the lines of he'd prefer to serve his
21 second term end to end as opposed to running again in '24, but if he had to, that's what
22 he would do.

23 Q Okay. Did you get a sense at that point for whether the President
24 understood that he had lost the 2020 election?

25 A I did not.

1 Q Okay.

2 A You know, I think we were talking solely and focused solely on, you know,
3 the ongoing court cases and the certification process that was, you know, in the midst of
4 happening at that point.

5 Q Okay. And -- but, nonetheless, he was saying that if he needed to run
6 again, meaning that if he was out of office after the 2020 election, that he would intend
7 to do so again in 2024?

8 A I took that to mean that was a very real possibility, yes.

9 Q Okay. Understood.

10 [REDACTED] Okay. I'll pause here just to see if -- it looks like Mr. Schiff has
11 logged off, but if any of my colleagues have any questions.

12 All right. The next thing I'd like to show you is the letter. And my colleague,
13 [REDACTED] has just had to step out for a moment, so if we could just go off the record for a
14 couple of minutes, I will switch over and get the exhibits loaded.

15 [Recess.]

16 [REDACTED] Okay to go back on the record, Speaker Cutler?

17 Mr. Cutler. Yes, ma'am.

18 [REDACTED] Okay.

19 Mr. Cutler. Yes, ma'am.

20 [REDACTED] And I understand you have time constraints, so we will --

21 Mr. Cutler. I do.

22 [REDACTED] -- speed through this. We appreciate your time and your
23 cooperation today.

24 Mr. Cutler. Yes, ma'am.

25 BY [REDACTED]

1 Q So I understand that you issued or signed on to several letters in the first few
2 days of December. Specifically, I think there were several that were issued on
3 December 4th.

4 Do you remember whether those letters were issued after your meeting with
5 President Trump?

6 A They were issued after but had been worked on before.

7 Q Okay. Got it. That probably helps to narrow it down to likely the
8 December 3rd date for the Oval Office meeting as well?

9 A I just know that it was the Thursday.

10 Q Yes.

11 A So whatever that date is.

12 Q Okay. Great. Without pulling it up here, I just want to ask you generally
13 about a letter that you sent to Pennsylvania Inspector General Lucas Miller. Do you
14 remember that one?

15 A I do.

16 Q Okay.

17 A There was a total of three letters. One went to the inspector general, one
18 went to the congressional delegation, and I sent one to the Governor previously, to
19 the -- you know, regarding the audit back in November.

20 Q Got it. Okay. Great. The inspector -- the letter to the inspector general,
21 I just wanted to ask if you knew what came out of that letter. Was there any
22 investigation done, any report back to you?

23 A There was no report given back to me. I do not know if there was an
24 investigation done or not.

25 Q Okay. And the internal -- that letter, my understanding is that it related

1 primarily to policies and procedures and the conduct of the Department of State during
2 the 2020 election cycle. Is that fair?

3 A That is fair, yes.

4 Q Okay.

5 A We'd had some ongoing issues with Department of State. She ultimately
6 ended up resigning thereafter for other reasons, because they failed to publish a
7 constitutional amendment.

8 Q Understood. The reasons that prompted your letter to the inspector
9 general about the Department of State, though, were they all under the category of
10 policy, procedure, potential irregularities for investigation, as opposed to allegations of
11 corruption, fraud, things that would have affected the outcome of the election?

12 A I believe that one was more about policies and procedures.

13 Q Okay. So I do want to pull up for you the letter that you just referred to
14 that was sent also on December 4th, 2020, to the Pennsylvania congressional delegation.
15 There we are.

16 So I assume you're familiar with the content, Speaker Cutler?

17 A Yes, ma'am. Yeah.

18 Q Okay. If we can scroll down to the bottom of page 2, that's most of the
19 substance, but in the interest of time, I will not make you reread it, unless it would be
20 helpful or necessary to refresh your recollection about what's in the letter.

21 A No, that's good. You can scroll.

22 Q Okay, great. So tell us, why did you send or sign on to this letter?

23 A For me, it was really a multipronged process of appeals. You know, our
24 only -- our only remedy after having lost, you know, some of the election cases at our
25 supreme court, the U.S. Supreme Court, was to notify the congressional delegation of

1 what I believed, and the reason I signed, was some of the problems with the
2 administration of the election, and until those claims were all satisfactorily investigated
3 and resolved, that they might want to push pause on the certification process.

4 Q Okay. And what were the problems with the administration that you're
5 referring to there?

6 A I think they're all enumerated in the bullet points regarding the late mail-in
7 ballots, the process of the drop boxes, the process of curing. And while it did not
8 ultimately impact the Presidential election, it did, in fact, ultimately cost the Senate likely
9 a seat, because they had a split county seat where late ballots and undated ballots were
10 counted one way in one county and differently in another.

11 Q Okay. The purpose for sending -- well, first of all, who drafted the letter?

12 A I believe it was the State Government Committee and Chairman Seth Grove.

13 Q Okay.

14 A He and his staff. I don't know who specifically drafted it.

15 Q Okay. And do you know whether it was requested by anyone outside of
16 the Pennsylvania legislature?

17 A I do not.

18 Q Okay. Help me to understand how this letter, and as you've described it,
19 recommending that the congressional delegation press pause on certification of the
20 election, how is that consistent with what you've told us already about the only sort of
21 legal avenues that you thought were valid for challenging the certification of the election?

22 A All of our legal avenues were based on State law. This is Federal law and
23 the process by which the Congress certifies the electoral vote. This is a process that had
24 been, my understanding is, utilized in several of the prior Presidential elections, regarding
25 Florida in one case and Ohio in another. And in both cases, it was to bring attention to

1 the issues related to the administration of elections, and I believe this letter was
2 consistent with that same purpose.

3 Q Okay. Some of these -- this strikes me, though, as fitting more under the
4 category of what we discussed earlier as, you know, potential either policies and
5 procedure, administration items to be examined or future legislative changes or policy
6 changes that the legislature might consider. Is that fair? Is that a fair summary of the
7 reasons why you sent this letter?

8 A Yeah. The four that I can see on the page right now, yeah, I think all of
9 those are consistent with that.

10 The question, and it was one that only the Members of Congress could answer,
11 was, did that rise to, you know, the official objection of those electors on the certification
12 day in January.

13 But that's one that only they could answer with complete information, something
14 that they would have come January that, quite frankly, we didn't through November and
15 the beginning of December, because many of the cases and much of the, you know, the
16 hearings and things were ongoing.

17 Q I see. So did you have an opinion about whether any of these issues or
18 policy matters would rise to the level of requiring the Congress not to certify the outcome
19 of the election in Pennsylvania?

20 A For me personally, I thought that the question needed to be answered prior
21 to certification, and you would have to have the benefit of the intervening time and the
22 continued disposition of those court cases before you could truthfully answer that
23 question.

24 So for me it was essentially notice to the congressional delegation, these issues
25 are ongoing. In many cases, they've not been solved even up until today, and,

1 therefore, they needed to do their own due diligence prior to accepting those results.

2 Q Okay. And when you refer to these as issues that were outgoing -- or
3 ongoing rather, do you -- were you thinking of litigation cases that were still pending --

4 A Yes.

5 Q -- regarding these issues?

6 A Yes. In some cases.

7 Q Okay. What about the nonlitigation, were there other issues that you
8 thought needed to be examined by Members of Congress before certifying the
9 Presidential election that were not the subject of ongoing litigation?

10 A No. They're all listed in the letter there.

11 Q Okay. Okay. So had you -- are any of these -- the examples listed here or
12 others that you might have been thinking of when writing or signing on to this letter, did
13 any of them qualify as, you know, instances of election fraud, actual corruption, or
14 wrongdoing connected to the election?

15 A I think that there was an open question legally, and I believe the case was
16 ongoing, at least in December, regarding the first bullet point, regarding the late ballots.
17 That was a legal question that was litigated. I personally think the court got wrong
18 because our statutory deadline is very clear, it's 8 p.m. on election day.

19 And probably the most egregious part of that court order was that they did not
20 even need to be postmarked, as long as they arrived within 3 days. That was an issue.
21 So that was a legitimate question of process.

22 Now, ultimately, we found out later that it was 9,700 or 9,800 ballots, so it was
23 not the difference, as we discussed earlier, but it was an open question that I felt need
24 answered prior to both the certification, which the Governor did not do, and the actual
25 congressional acceptance of those numbers come January.

1 Q But as of December 4th when this letter was written -- or sent rather, you
2 did know that the number of affected ballots related to that issue that you've just
3 described. Isn't that right?

4 A I'm not certain which dates that was finally disposed. I know we had a case
5 prior to election day where we were told that the claim was not yet ripe and we were not
6 harmed, therefore, they would not hear the case. And then when we got the order to
7 segregate the ballots and went back after the election, we were told that the case was
8 already moot, which I don't believe happened until several months later.

9 Q Okay.

10 A But I'd have to go back and look at the court filings, to be honest. We were
11 juggling literally dozens of lawsuits, and we -- the House Republican Caucus was the one
12 who consistently maintained that the law should be enforced as written.

13 Q Okay. So one of the bullet points here describes that, quote, some county
14 boards of elections ignored this prohibition and have proceeded to include thousands of
15 defective ballots in the certified count.

16 What was your understanding of what the defective ballots were that you're
17 referring to in this letter?

18 A It actually ties back into the second point, which is, they were weighing the
19 envelopes without opening them, then notify voters that they had forgotten their secrecy
20 envelope, which is a fatal flaw under Pennsylvania law.

21 And then the other piece, the third part -- third bullet point, rather, also dealt with
22 the undated and sometimes unsigned and incomplete applications that were submitted.

23 Our law was very clear on those issues and also deals with the first bullet point,
24 which is, are those ballots potentially that were counted -- or received and then counted
25 after election day.

1 As I mentioned previously, that while it did not impact the outcome of the
2 Presidential election, it more than likely directly impacted the outcome of one of our
3 Senate races.

4 In fact, on swearing-in day on January the 5th, the Senate is a continually
5 operating body and -- but there's only 25 of them that are sitting at any -- you know, in
6 the interim session like that, between sessions and prior to swearing-in day. So they
7 actually voted on whether or not to accept those election results and rejected the seating
8 of one member while the litigation was ongoing.

9 Q Okay. But when it came to the audience of the congressional delegation,
10 the only issue before them would've been the Presidential election.

11 A Correct.

12 Q Is that right?

13 A Correct.

14 Q Okay. And did you have any knowledge of defective ballots included in the
15 count that would have affected the outcome of the Presidential election?

16 A Just those that are mentioned on the other bullets points in the letter.

1

2 [3:05 p.m.]

3

BY [REDACTED]

4

Q But, with those, did you have an understanding that there existed a population of ballots that somehow would have -- you know, that the adjudication or an issue related to those ballots would have affected the outcome of the Presidential election?

8

A I'm going to have to ask you to re-ask that question, [REDACTED] I'm not sure I'm following your question.

10

Q Sure. Yeah. I just understood when I was asking you about the inclusion in this letter of the statement about defective -- deficient ballots --

12

A Right.

13

Q -- being included in the certified count, and what you, you know, described to me is that you did -- I thought I heard you to say that it didn't affect the Presidential election but that it might have affected other elections like the one that you identified in the Pennsylvania Senate?

17

A Okay.

18

Q I just wanted to get clarification about whether putting this issue in the letter to the congressional delegation was because you did think, as of December 4th, that there was a matter that needed to be resolved such that it might affect the outcome of the Presidential election.

22

A There was still an open question. The first bullet point, which is the late ballots 3 days after election without the postmark, that was a quantifiable number. We knew that at that point. The question of some of the others and who canvassed -- who pre-canvassed and went to the website and did not was not a certain number at that

25

1 time, so at best it was an open question.

2 Q Okay. And what ended up -- was there a resolution to those questions?

3 A Ultimately, Congress chose to accept the electoral college as certified, and
4 that was the resolution on the congressional level. Our hearings were ongoing. We
5 did about 30 hours of hearings here in the house this session on the election law, and
6 then we did propose some additional legislative changes to try to fix many of these
7 administrative problems that are outlined in the letter.

8 Q Okay. All right. Thank you.

9 Okay. In the interest of time, I'm going to change gears, but I will pause really
10 briefly to see if any of my colleagues have a question on this topic.

11 Okay. Speaker Cutler, I wanted to ask you a few questions about your
12 interactions with Professor John Eastman --

13 A Uh-huh.

14 Q -- who you referred to a little bit earlier in our interview today.

15 A Yes.

16 Q So did there come a time when you had an interaction directly with Dr.
17 Eastman?

18 A I did. I don't recall the exact date, but he had testified, I believe, in
19 Georgia, and I had a friend who was taking one of his classes. So they have offered to
20 set up a meeting because he, in my opinion, had misrepresented some of the provisions
21 of our specific State constitution. And that was really an effort to kind of head that off
22 before our members started getting, you know, lots of, like me, you know, national emails
23 and phone calls into their offices.

24 Q Okay. What was the specific misrepresentation that you perceived
25 Professor Eastman making in his Georgia Senate testimony?

1 A Regarding the selection of electors, I do not believe he was aware of our
2 specific prohibition against, you know, retroactively changing them, one; and, two, I also
3 did not believe, based on the news reports of those testimonies, that he understood that
4 we actually were not in session. You know, we terminate on November the 30th. We
5 didn't pick back up until the first Tuesday, which that year happened to be January the
6 5th. So the idea that the speaker existed in order to call us back into session simply was
7 not accurate.

8 Q Okay. And did you have a phone call or a --

9 A Yes.

10 Q -- video conference with Professor Eastman?

11 A Yes.

12 Q Was it a phone call or --

13 A No. It was a Zoom or Teams, or one of them. I'm not really sure which.

14 Q And what you've just explained to us about your -- you know, what you
15 thought was a misstatement and misapprehension of those circumstances in
16 Pennsylvania, did you convey that to Professor Eastman on this call?

17 A Yes, I did.

18 Q Okay. You mentioned a friend who had arranged for the phone call. Is
19 that a person with the last name Martin?

20 A Yes, it is.

21 Q Is it perhaps Amber Lynn Martin or Senator Scott Martin?

22 A It was Amber was the one who had the class.

23 Q Okay. And did Ms. Martin and Senator Martin -- are they related?

24 A They are. They are married.

25 Q Okay. Understood. Not a coincidence of name.

1 Did they both participate with you on the Zoom call --

2 A Yes, they did.

3 Q -- with Professor Eastman?

4 A Yes.

5 Q Okay. And before we talk -- I do want to talk a little bit about the
6 substance of the call, but did either of them have -- other than the class that Ms. Martin
7 was taking, did either of them have an attorney-client relationship with Professor
8 Eastman?

9 A Not that I'm aware of.

10 Q Did you --

11 A But you would have to ask them.

12 Q Understood.

13 Did you ever have an attorney-client relationship with Professor Eastman?

14 A I did not.

15 Q In the context of this Zoom call that you participated in, were you seeking
16 representation or legal advice from Professor Eastman?

17 A No, ma'am. It was really more of an explanation of what I believed our
18 constitution to say on the merits of what he was discussing publicly.

19 Q Okay. So what do you recall of Professor Eastman's reaction to your
20 statements on that point?

21 A I believe he was surprised to find out that we weren't a continuing body.
22 You know, he asked some questions about that, and he basically acknowledged that
23 constitutionally that presented a different scenario than other places in the country, and
24 he thanked us for the information. It really was not a lengthy call or discussion in terms
25 of the particulars because it's pretty cut and dry. We had walked through the specific

1 prohibition against the electors and how it could be prospective, not retroactive.

2 I'm sure you're seeing a consistent theme here amongst all of these conversations,
3 but I do think our constitution is fairly clear. And then, specific to not being in session
4 and what that meant in terms of coming back, ran through the same process that we
5 discussed previously, which was from December the 1st to the first Tuesday, the only way
6 you can come back is either -- you know, through a special session declared by of the
7 Governor.

8 Q Okay. Did Professor Eastman argue with you on any of these points, or did
9 he just take your comments?

10 A No. I thought he asked some good questions, you know, in terms of, you
11 know, what I will call legal process questions. I do recall speaking specifically, for
12 example -- like, when we're not in session and the speaker is not here, during normal
13 session, I'm the individual who is served when the house is sued. But, from December
14 the 1st to the first Tuesday of January, it's the majority leader who is served during that
15 interim, which I had served in that role the prior term, so I was aware of that, and that
16 was a particular example that I had shared administratively.

17 I also -- at that time, we had discussed the issue surrounding the senate with only
18 half of the body being in. And as would come to fruition, half the body did, in fact, vote
19 to reject the election later in January which further, I think, kind of cemented not just our
20 interpretation but what the constitution actually says.

21 Q Okay. Did Professor Eastman suggest any alternate, you know, paths for
22 the legislature to take some action regarding the outcome of the 2020 Presidential
23 election?

24 A No. Not during that call, no.

25 Q Okay. Did he at any later time?

1 A Well, just what you -- which we all saw publicly.

2 Q Sure. Okay. But no later --


3 A No.

4 Q -- you know, later communications with him?

5 A No.

6 Q Okay.

7 A Other than the followup email where he shared the documents that he had
8 spoken about in Georgia, but I had already seen them previously.

9 Q Okay. Yeah, I was going to bring that up. It's our exhibit 13, and we'll --
10 I think if we just look at the attachment starting on page 4,  that would be
11 great.

12 Before we get to that, though, Speaker Cutler, did your communications with the
13 President come up in your conversation with Dr. Eastman at all?

14 A I actually don't remember.

15 Q Okay.

16 A Because, from a timing perspective, I don't -- I don't remember when I spoke
17 with him, so --

18 Q If it's helpful, it looks like it may have been on Saturday, December the 5th.
19 That's the date with the email.

20 A I don't remember discussing those conversations. My recollection is it was
21 confined solely to the constitutional issues that were different in Pennsylvania as
22 compared to some of the other States which he had testified in.

23 Q Okay. Understood.

24 Did he -- did Professor Eastman raise anything, you know, any evidence of election
25 fraud or bring up any other, you know, potential factors that might affect the kind of

1 constitutionality of the election?

2 A No. We focused mainly on what I will call the mechanics of the fact that we
3 simply weren't in session.

4 Q Okay.

5 A As a matter of fact, if you go back to the letter that I signed, I'm pretty sure
6 that I'm just listed as a representative-elect on that and not speaker.

7 Q Right. Understood.

8 So the attachments that Dr. Eastman provided to you after the call, this is -- the
9 first one is this paper titled "The Constitutional Authority of State Legislatures to Choose
10 Electors."

11 Other than the fact that this was also presented in connection with the Georgia
12 testimony that you were, you know, wishing to correct his misstatement regarding, did
13 Dr. Eastman discuss with you any of this paper during the phone call?

14 A Just generically in terms of the Georgia presentation, and he acknowledged
15 that Pennsylvania was a unique State given the fact that we were not in and we had the
16 direct prohibition against selecting electors.

17 Q Okay. In the interests of time, I won't bring you to look at each of them,
18 but there are -- there's another attachment to this email that he titled "Pennsylvania
19 2020 Voting Analysis Report."

20 Do you remember if that document, which considers several anomalies or, you
21 know, statistical analyses of the election, was that discussed during your Zoom call?

22 A I do not recall. I'm not actually familiar with that document, other than the
23 fact that it's on the email.

24 Q Yeah. It's -- let me just look at the front page, please, [REDACTED] It's page 18
25 of this exhibit.

1 A I wonder if that's -- can you scroll down a little bit? Who's the author? Is
2 that Frank Ryan's report? I think that might be Frank Ryan's report, which is the --

3 Q It looks like -- at least the executive summary says it's edited -- it's signed by
4 an editor/physicist John Drawz, Jr. (ph).

5 A Oh, no. Then that's not the one I thought it was. I'm sorry, [REDACTED]

6 Q Oh, that's fine. I'm not sure that my noting that name is dispositive of who
7 wrote it.

8 A No. We had a member who did a -- what he called a term day voter deficit
9 report, but that's not this. That is very clear. This is a different report.

10 Q Okay. Okay. In his email in which he provided these materials to you, Dr.
11 Eastman wrote: Here are the materials we discussed. Thank you for including me in
12 your deliberations. I am ecstatic at how thoroughly you are on top of the key issues that
13 we're confronting.

14 What did -- first of all, is that consistent with your understanding of the content of
15 this communication, the Zoom call itself?

16 A I took that to mean he was impressed with our understanding of the
17 constitutional issues that we discussed in terms of not being in session, not actually being
18 a constituted body, and then the prohibition on the other issues because every
19 time -- anytime that he discussed something, we knew directly, you know, where to go in
20 the constitution or the statute as a topic to discuss that particular matter.

21 Q Okay. What about this phrase, "your deliberations"? Were you
22 undertaking any deliberations at that time?

23 A No. I viewed it more as a discussion.

24 Q Okay. And just as a sort of a big picture, in this communication, this email,
25 or the Zoom call that preceded it, did you perceive that Dr. Eastman was asking or

1 recommending that you take some action to appoint electors or to affect the outcome of
2 the election in Pennsylvania?

3 A No. In fact, I think, after our discussion, I had the opposite belief, that he
4 understood the constraints that the Pennsylvania constitution put on a request such as
5 that.

6 Q Okay. And if he later represented that he believed that there was some
7 kind of action to be taken -- well, let me rephrase.

8 Through our investigation, we are aware of some communications involving Dr.
9 Eastman in the days leading up to January 6th, including with the staff and lawyers for
10 Vice President Mike Pence, in which Dr. Eastman asserts that there -- the Pennsylvania
11 legislature is likely to take some action that would call into question the outcome of the
12 2020 election.

13 Are you aware of anything that would have provided the basis for such an
14 assertion?

15 A I am not, not based off of our conversations.

16 Q Okay. So your communications with Dr. Eastman would not have
17 contained anything that should have given him the impression --

18 A No.

19 Q -- that the legislature was going to take some action to overturn the
20 outcome of the election?

21 A Yeah. And that was the only communication -- the call and the followup
22 email were the only two communications that occurred.

23 Q Okay. Let me look at my notes real quickly.

24 What was the role of Senator Martin and Ms. Martin during this call with
25 Professor Eastman?

1 A Well, Ms. Martin was obviously the student, so she set up the call. Senator
2 Martin is obviously a State senator. He was one of the ones who was not yet seated, so
3 I think he had many of the same questions I did, and rather than having the same
4 conversation twice, we just had it once.

5 Q I see. Did he make any statements, or was there any part of his discussion
6 with Dr. Eastman that was inconsistent with the description you've given to us of your
7 view?

8 A Not that I'm aware of.

9 Q Okay. Did you discuss your discussion with -- the discussion that you had
10 with Professor Eastman with any other members of the legislature either on the house
11 side or senate side?

12 A No, other than counsel here. That's all I remember.

13 Q Okay.

14 A And, obviously, Senator Martin, but he was part of the call.

15 Q Sure. Okay. That makes sense.

16 One last email I would like to put up for you, which is exhibit 14, please.

17 So this is an email exchange that you provided to us in response to our request,
18 Speaker Cutler -- our subpoena, in fact -- related to communications you had with
19 Lawrence Tabas. Mr. Tabas I understand to have been and is still the chair of the
20 Republican Party in Pennsylvania. Is that right?

21 A I believe so, yes.

22 Q Okay. So this also seems to relate to Professor Eastman, though it is
23 sometime later. So your call with Professor Eastman appears to have been on
24 December 5th, and then this is an email exchange with Mr. Tabas on January 3rd.

25 Can you tell us, how did the concept or the -- how did Mr. Eastman become, again,

1 a topic of conversation for you on Sunday, January 3rd?

2 A I honestly do not recall, other than the fact that I believe at that time that
3 the State committee was -- that's when they did enter into their conditional alternate
4 slate, but I believe it was related to notice that that was going to be released or become
5 public.

6 Q Oh, I see. Okay.

7 And what's your understanding of the alternate slate that you just identified?
8 How did that come to be?

9 A It was conditioned upon the ongoing court cases, and I believe it relied on
10 Hawaii from the Nixon election, if I remember correctly, in terms of the references for
11 case law.

12 Q Okay. At the time back in December, the meeting of the electoral college
13 back on December 14th, were you aware that the Trump campaign was organizing
14 Republican electors to meet and cast their votes on that day?

15 A No, ma'am.

16 Q Okay. Did you interact with any of them, either, you know, before or after,
17 regarding their casting votes for alternate electors for Trump-Pence?

18 A No.

19 Q Okay. Did you discuss it with Mr. Tabas?

20 A Only as a matter of notice. He did not want me to see it in the newspaper.

21 Q Understood.

22 Do you remember whether that was in around the time that the electors met in
23 December, December 14th, or was it closer to this email in early January?

24 A I don't recall.

25 Q Okay. And what did Mr. Tabas convey to you about the purpose of these

1 alternate electors meeting?

2 A That it was essentially conditioned upon the ongoing court cases, and that
3 was the reason they were doing it, because my understanding, at least from that
4 conversation, was it's a drop-dead date, and if you don't do it on that day, it doesn't
5 matter if something happens later.

6 Q Okay. So what was the connection between the alternate slate of electors
7 and Professor Eastman?

8 A I do not know, other than his testimony that he provided in Georgia which
9 indicated that the State legislature could choose their own but was not permitted here.

10 Q Right. Which is what you corrected his misunderstanding about during
11 your Zoom call. Correct?

12 A Correct.

13 Q Okay. Did you participate in a Zoom call on the day before this email, on
14 Saturday, January 2nd?

15 A I don't recall.

16 Q There was a call that was convened by -- at least in part by a nonprofit called
17 The Amistad Project, and there were hundreds of State legislators that were invited and
18 participated in the call. In addition to other speakers, it featured comments given
19 during the call by President Trump.

20 Do you remember that?

21 A No, I do not recall that, and I don't remember being on that call.

22 Q Got it. Okay.

23 Do you know what Mr. Tabas was referring to in the email -- apologies, [REDACTED]
24 It's exhibit 14 again -- that he wrote to you on January 3rd? He writes: There has been
25 no update from yesterday's call.

1 A No.

2 Q Do you know what that referred to?

3 A I did not.

4 Q Okay. Are you aware that Mr. Tabas was originally on the list of
5 Trump-Pence electors for Pennsylvania but then did not participate when the slate met as
6 alternate electors on December 14th?

7 A No.

8 Q Okay. Did that come up at all in your discussion with --

9 A No.

10 Q -- Mr. Tabas about this alternate slate?

11 A Not that I recall, no.

12 Q Okay.

13 A It was merely noticed that an alternate slate had been assembled --

14 Q Okay.

15 A -- in the event the litigation was found to be favorable.

16 Q Okay. And at the time, on January 3rd, or thereabouts, when you were
17 having these discussions with Mr. Tabas, was there a resolution to any litigation that
18 would have affected the selection of a slate of electors?

19 A I don't recall.

20 Q Okay. Was there any idea in the days leading up to January 6th, whether it
21 was through communications with Mr. Tabas or otherwise, that there would be some
22 contemplated role for the State legislature regarding this alternate slate of electors?

23 A No.

24 Q Okay.

25 A That ship had essentially already left the building back in December in terms

1 of -- you know, because that's the drop-dead date on the Electoral Counting Act. So my
2 understanding at that time was that's why both the electors, as well as the potential
3 alternate, based upon -- contingent upon the litigation outcomes were selected at that
4 time and then the only remedy left would be that or Congress.

5 Q Okay. Did anyone ever ask you, like make an ask or otherwise, you know,
6 insinuate or suggest that you should take some action to recognize this alternate slate of
7 electors?

8 A No.

9 Q Okay. And, Speaker Cutler, we're coming up on time. I know you have a
10 lot of other matters to attend, but there's an area that we didn't get to talk much about
11 today that I just wanted to touch upon before we leave, and that is the threats and
12 pressure or, you know, protest activity that was directed at you following the election.

13 So, when we met before informally in your office, you shared with us the
14 experience of having protestors show up at your house. I think, if I remember correctly,
15 you told us that one of your children was home at the time that they showed up.

16 So, if you could, just briefly before we let you go back to your regularly scheduled
17 business, could you tell us generally what your experience was of receiving the level of,
18 you know, pressure and protest activity surrounding the Presidential election?

19 A Sure. There were multiple protests. I actually don't remember the exact
20 number. There was at least three, I think, outside either my district office or my home.
21 And you're correct; my son -- my then 15-year-old son was home by himself for the first
22 one. That was the first Saturday of deer season actually, so whatever that Saturday
23 after the Thursday visit to the White House, that was the first one.

24 And it's my understanding that my -- all of my personal information was doxed
25 online. It was my personal email, my personal cell phone, my home phone number. In

1 fact, we had to disconnect our home phone for about 3 days because it would ring all
2 hours of the night and would fill up with messages, some of which we forwarded to you
3 that we still had, because I would -- on my cell phone I would just block the numbers as
4 they came in. And it was -- you know, it was wholly outside what I would call normal
5 legislative activity.

6 Q In particular, I think that you mentioned something about your -- a comment
7 made about you by Steve Bannon on his podcast?

8 A Yes.

9 Q Do you remember that?

10 A Yes. That's what I was told. I do not listen to Mr. Bannon, so it was
11 relayed to me by a third party. But my understanding is that, you know, he posted all of
12 my information at some point during one of his programs.

13 Q Okay. And did he refer to you as a traitor?

14 A Yes, that's what was relayed to me.

15 Q Okay. I know you mentioned this was outside of the normal legislative, you
16 know, process. How does it compare to your experience in other election cycles?

17 A It was definitely more heightened. Now, you know, I think I had three or
18 four death threats probably during that window. Now, to be fair, I've also had one this
19 session on a different legislative issue, which we did prosecute, you know, so sadly it's
20 becoming more and more relevant in today's world, which is really a sad testament I think
21 to what people think is appropriate conduct. You know, that doesn't count the
22 thousands of emails that came in, you know, all on the similar vein, or messages here that
23 my staff had to endure from people as well.

24 Q And what did you -- to the extent that you could perceive a purpose to the
25 messages and the threats that you were receiving, what was it? What do you think that

1 the people who were threatening you were trying to achieve?

2 A Well, I don't know about their specific motives. The general expressed
3 reason for the call was, you know, you needed to do something about the election. But
4 when, you know, I would talk that -- to the people that were actually constituents and
5 would explain to them, you know, the process that we had went through, you know, and
6 the fact that the court cases that could have been filed weren't, they seemed to
7 understand. But the problem was it really was a national phenomenon in terms of, you
8 know, some of the reach of some of the people who were sharing my private information
9 for people to call. So it was virtually impossible probably to respond to every inquiry in
10 kind.

11 Q Okay. Thank you very much for that.

12 So, before we go, is there anything that you think is relevant to the select
13 committee's inquiry regarding the actual attack on January 6th and the causes of the
14 attack that we haven't touched upon today that you would like to address?

15 A No, ma'am. I think you did a great job of covering everything that we
16 discussed previously, so thank you.

17 [REDACTED] Okay. Great.

18 Mr. Rush, anything that you would like to address before we go off the record?

19 Mr. Rush. No, ma'am, other than we will read and sign, but you covered that
20 earlier. So thank you for your professionalism and getting us done on time.

21 [REDACTED] Understood.

22 Speaker Cutler, thank you very much for your cooperation. Thanks for meeting
23 with us previously --

24 Mr. Cutler. You're very welcome.

25 [REDACTED] -- and for your time today. We really appreciate it.

- 1 Mr. Cutler. You're very welcome. Thank you.
- 2 [REDACTED] Okay. We'll go off the record now.
- 3 [Whereupon, at 3:32 p.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date